



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Environment, Climate Change and Land Reform Committee

**Tuesday 8 October 2019**

**Session 5**



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Pàrlamaid na h-Alba

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**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>1</b>
<b>PROPOSED DEPOSIT RETURN SCHEME .....</b>	<b>2</b>

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**ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE**  
**27<sup>th</sup> Meeting 2019, Session 5**

**CONVENER**

\*Gillian Martin (Aberdeenshire East) (SNP)

**DEPUTY CONVENER**

\*Finlay Carson (Galloway and West Dumfries) (Con)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

\*Angus MacDonald (Falkirk East) (SNP)

\*Mark Ruskell (Mid Scotland and Fife) (Green)

\*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

David Barnes (Scottish Government)

Ginny Gardner (Scottish Government)

Scott Wood (Scottish Government)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Environment, Climate Change and Land Reform Committee

*Tuesday 8 October 2019*

*[The Convener opened the meeting at 11:02]*

### Decision on Taking Business in Private

**The Convener (Gillian Martin):** Welcome to the 27th meeting in 2019 of the Environment, Climate Change and Land Reform Committee. I remind everyone to either switch off their mobile phones or put them on silent, as they affect the broadcasting system.

Do members agree to take agenda item 3 and all further consideration of our approach to the Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Bill in private?

**Members indicated agreement.**

## Proposed Deposit Return Scheme

11:02

**The Convener:** Under item 2, we will hear evidence from Scottish Government officials on the proposed deposit return scheme. I am delighted to welcome Ginny Gardner, head of the circular economy unit; Scott Wood, team leader for the deposit return scheme; Emily Freeman, solicitor; and David Barnes, Zero Waste Scotland programme manager for the deposit return scheme. Good morning and thank you for coming in. We have an hour to rattle through an enormous number of questions from committee members. I will try to get through most of the questions. If the most appropriate person to answer each question raises their hand, we will manage to get through the questions efficiently.

What process has the Government gone through to determine which materials to include in the scope of the scheme?

**Scott Wood (Scottish Government):** We have considered a wide range of evidence in determining the materials to include in the scope of the scheme. The three materials that we have chosen to include are polyethylene terephthalate—PET—plastic, glass and metal cans, which together account for in excess of 80 per cent of the containers on the Scottish drinks market. Adopting a design with that scope is consistent with ministers' ambition to deliver a broad-ranging and comprehensive scheme.

We have undertaken an extensive consultation on our proposals and the three materials that we have gone for were the most popular materials identified by the respondents who participated in the consultation. Those materials are also common features of other schemes internationally, which gives us a degree of confidence that we can deliver a scheme of this scope in Scotland. By adopting a set of materials that is commonplace elsewhere, we can significantly reduce the operational and commercial risk that is associated with such a scheme.

Those are some of the factors that have been part of our consideration of the scope of the scheme.

**The Convener:** Some industry representatives have got in touch with every member of the Scottish Parliament and with the committee to raise concerns about the inclusion of glass in the scheme. Those industry representatives claimed that it will undermine local authorities' kerbside collections. First, why was it decided to include glass? Secondly, what do you say in response to

the claim that local authorities might find that it is not viable to pick up the type of glass, such as jars, that does not go into the DRS?

**Scott Wood:** David Barnes is best placed to provide more background on the case for including glass more generally. Before I pass over to him, on the point about the collection of the residual glass, I note that local authorities will continue to be under a legal obligation to collect glass that does not fall within the scope of the DRS, and that will be captured through kerbside collections. Wider changes that are planned in relation to packaging producer responsibility—for packaging other than the material that we capture through the DRS—will ensure the viability of those collections.

**The Convener:** I have a question about the finances. The good-quality glass that councils collect, such as clear-glass wine bottles, has a value, so what will the DRS mean for councils? Will a saving come from the fact that, as a result of the DRS, glass, plastics and aluminium will be off our streets?

**Scott Wood:** That is the counterbalance.

**The Convener:** Before I pepper Scott Wood with more questions, I will let David Barnes in. I am sure that he will answer them all anyway.

**David Barnes (Scottish Government):** Please continue to pepper Scott with questions. *[Laughter.]*

On the impact on local authority kerbside collections, for the reason that you identified, we have modelled that there is a cost impact to local authorities. If they get an income from the sale of materials, they will lose that income stream. Across the 32 authorities, that income stream is about £40 million.

There are three areas of direct operational savings for local authorities. First, at the moment, a lot of the material is in landfill, so they are paying to dispose of it. For example, the capture rate for glass is only about 63 per cent. Under a deposit return scheme, it would be about 90 per cent. Therefore, the authorities are paying for a heavy material to go to landfill and incurring a larger cost than the income that they get from it if they are separating it out.

Secondly, regardless of whether the material is in the residual bin—and therefore goes to landfill—or is collected for recycling, local authorities have operational costs, such as the staff and vehicles that physically collect the material from households. The third element of cost to authorities is that, when the material is not properly disposed of, it enters the litter stream and they have to clean it off our streets.

Because of all those other operational costs, there will be about £230 million of savings for local

authorities. That is why the full business case stage 1, which was published in May, identified a net saving to local authorities of around £191 million. We acknowledge that there is reduced income from those revenue streams, but that is more than offset by the fact that they physically do not have to collect that material. That frees up collection resources to be used for other purposes.

**The Convener:** Does the DRS have advantages in relation to contaminated glass? A lot of the glass that householders put out is contaminated or not washed properly. Will the DRS also deal with that element of contamination?

**David Barnes:** Absolutely. We talk rightly about the huge increase in the quantity of material for recycling that deposit return will deliver. In the schemes that I have seen elsewhere, it is the quality of material that impresses me most. That allows closed loop recycling. It allows us to realise the ambition of a circular economy. For example, at the moment, when glass is collected at kerbside for recycling, we lose about 20 per cent through process loss—the tipping and collecting of it through various stages—and also because various well-intentioned members of the public put things such as ceramics into the glass bin and, when that is not sorted out at the facility, it results in contamination and that part of the load being rejected. However, with a deposit return scheme, there is a vetting process, which gets really clean material into the system. In Scotland, we have a large native glass reprocessing industry. The scheme would offer an economic opportunity for us to maximise the quality of that glass and ensure that it can go into iconic manufacturing, such as of Scotch whisky bottles.

**The Convener:** You discounted certain items and products from the DRS, such as plastic milk cartons. Can you talk us through what was discounted and why?

**Scott Wood:** Our approach has been to focus on the exclusion of materials, rather than products, because the intention is not to skew the market for any product but to drive up recycling rates for materials. We have decided to exclude high-density polyethylene—HDPE—plastic, which is primarily used for fresh dairy, from the scope of the scheme.

Some consultation respondents had significant reservations about the inclusion of HDPE: both retailers and members of the public had concerns about the perceived hygiene risks from leaving HDPE containers at return points.

**The Convener:** Is HDPE what the milk containers are made from?

**Scott Wood:** Yes. Concerns were raised about those containers being returned to retail return points and then sitting there for some time,

because of the perceived hygiene risks that could be associated with that. We do not recognise many of those risks but, clearly, there is that perception and it is important that we listen to the feedback that we have received from members of the public and retailers, because it is critical that stakeholders engage actively in the delivery of deposit return from the outset. We need them to trust and support the scheme that we are introducing. On that basis, we have excluded HDPE for the moment. However, if we can work to address some of those concerns over time, we could add HDPE in at a later date.

**The Convener:** That leads me to my last question. In the future, what will the process be for adding more materials, such as HDPE, into the DRS?

**Scott Wood:** It is certainly possible to include further materials at a later date. By and large, the infrastructure remains the same, although there would need to be an increase in the system capacity to accommodate those materials. The one exception to that is glass, because of the different considerations that are involved in the handling of glass and the infrastructure that is required, both at the back end, in relation to the counting, and at the front end, at the retail return points, where different machines are required to accept automated returns of glass.

**The Convener:** The initial proposal for the DRS was for plastic bottles and aluminium cans, but then it was decided to include glass. Was part of the reasoning for that the fact that it would be far more difficult and expensive to introduce glass at a later date?

**Scott Wood:** That is correct. The initial consultation sought views on a wide range of materials. The cabinet secretary has stated that the arguments in favour of the inclusion of PET plastic and metal cans are quite clear. The argument in favour of glass was more finely balanced, because we appreciate that there are different considerations involved. However, it is clear to us that, if we were to delay including glass and sought to add it at a later time, there would be significant operational and cost implications to doing so.

**Mark Ruskell (Mid Scotland and Fife) (Green):** Is there a risk that producers will simply move to using materials—you mentioned HDPE and bioplastics—that are not covered by the scheme? What if they avoid the regulations by manufacturing using a different material?

**Scott Wood:** When designing the scheme, one of our underpinning principles has been not to favour any particular material. Decisions about packaging are ultimately the decisions of individual producers—we cannot dictate to them on that. If

we look at the international experience, we see that there is no widespread evidence to suggest that deposit return schemes have resulted in material switching in the way that people might anticipate. David Barnes can elaborate on that.

**David Barnes:** Scott Wood mentioned that we are capturing 80 per cent of containers in the scope of the scheme. The sealed containers that the scheme leaves out are HDPE and beverage cartons.

We are confident that manufacturers will not switch materials to avoid the deposit return scheme. One reason for that is that beverage cartons cannot house carbonated drinks, so there are limitations to what can be moved to that material. The reason why a lot of materials are currently in glass or PET rather than HDPE is that there are other business drivers, such as marketing. PET is transparent, whereas HDPE is not. Glass has a premium feel to it and plastic does not. There are clear business reasons that drive businesses' current packaging decisions, and we do not think that the introduction of a deposit return scheme will influence that dynamic.

11:15

**Finlay Carson (Galloway and West Dumfries) (Con):** You talked about the iconic image of Scotch whisky. There are many different types of glass bottles out there for which the branding is important. Are you aware of any glass bottles that will not be suitable for use in reverse vending machines? How will you include those in the scheme?

**David Barnes:** The short answer is that we are not aware of any such glass bottles. The size that the typical reverse vending machine can take is the size specified in the regulations, which is between 50mg and 3 litres. There was a problem previously. The reason why glass was not introduced in a lot of the early deposit return schemes was that, until about seven years ago, reverse vending machines relied on spinning the container to read the barcode. A square bottle, such as a Johnnie Walker whisky bottle, could not be accepted by the machines because it could not be spun. Over the past five or six years, almost all the manufacturers have introduced an RVM that spins the scanner rather than the container. There is a scanner that spins on the inside of the machine to make sure that we can take the full range of bottles on the market.

**Finlay Carson:** I want to look at the reasons for adopting a single, uniform 20p charge on deposits. Did the Government consider having a variable charge, which would encourage the use of specific materials that might be easier to recycle?

**Scott Wood:** In the public consultation, we asked questions about the deposit level, and the consultation seemed to signal support for a flat rate, which is what we have gone for. We have considered whether having variable deposit levels would aid the effectiveness of the scheme. We are concerned that, by introducing variable deposits, we would devalue certain containers in the eyes of the public. What we are keen to do through the scheme is to achieve maximum capture rates for all materials, and we have identified the minimum flat rate deposit that we think is essential to ensure consumer participation and effective performance of the scheme. Given the rationale that I have just described, it would feel slightly counterintuitive to go below that for certain materials. To go above it would introduce some additional costs that we believe are unnecessary. That is the rationale for the flat rate deposit that we have adopted for the purposes of the regulations.

**Finlay Carson:** We have seen a variable rate elsewhere that might address specific items. For example, in Norway, there is an additional deposit on energy drinks, because it was found that schoolchildren tended to throw energy drink cans away at the entrance to schools. Increasing the deposit increased the number of cans that were returned. What flexibility is there in future to have a variable deposit?

**Scott Wood:** The deposit will be set through regulation. There is obviously an opportunity at some point in future to review the content of regulations—that is a matter for ministers and Parliament to consider—but we are of the view that, for the purposes of introduction, the flat rate deposit makes more sense, for the reasons that I have outlined.

The flat rate also has the value of being easy to communicate to the public. When we are looking to implement a fairly significant change in the recycling landscape, we think that it is important that we take an approach that is easy to communicate to the public and easy for the public to participate in.

**Finlay Carson:** What assessment did you make of the risk of consumers upsizing? I am thinking about the ratio of the deposit to the cost for small bottles with a deposit of 20p compared with the ratio for large bottles that also have a deposit of 20p. I am concerned about consumers upsizing when buying alcohol or fizzy drinks. What assessment did you make of that possibility?

**Scott Wood:** We looked at that as part of the business regulatory impact assessment that was published back in July 2019. The conclusion of that assessment was that there was limited scope for upsizing and we did not think that it was likely to be significant based on the evidence that was gathered.

We are also very mindful of the fact that the deposit is just that—a deposit—and we anticipate that 90 per cent or more of deposits will be redeemed by consumers. On that basis, we do not think that the inclusion of a deposit will have a significant impact on consumer purchasing choices.

**Finlay Carson:** How have you assessed the return rate at 90 per cent? What work have you done to make that assessment? If we look at other deposit return schemes, we see that that assessment is very high, particularly in the initial stages. How did you reach the figure of 90 per cent?

**David Barnes:** We based that on the Scottish Government's ambition to have a world-class deposit return scheme. We have looked at what the best-performing deposit return schemes are achieving, and the proposed scheme for Scotland has mirrored many of their characteristics. The European schemes are mainly return to retail, with a deposit level similar to the level that is proposed in the regulations, and they cover a similar range of materials. On that basis, we have looked at the Norwegian, Swedish, Danish, Lithuanian and Estonian schemes, which are all achieving a capture rate of about 90 per cent.

On the ramp-up to that rate, the Lithuanian scheme was the one that was introduced most recently and it achieved more than 90 per cent capture in the second year of its introduction. We think that the behaviour change that will be driven by introducing the deposit and making it as easy as possible for the consumer by having all retailers involved in providing a return service will result in that rapid behaviour change, which will get us to the 90 per cent level very quickly.

**Finlay Carson:** Finally, what is the status of your discussions with the United Kingdom Government on the VAT element of the deposit?

**Scott Wood:** We have written to the UK Government setting out the Scottish Government's position, which is that the deposit should not attract VAT, and we are awaiting a response.

**Finlay Carson:** When are you likely to get that response, given that you are looking to introduce the scheme in April 2021?

**Scott Wood:** We are looking to progress those conversations as quickly as possible, but it is not in our gift to dictate when that response will be sent.

**Angus MacDonald (Falkirk East) (SNP):** I want to explore how retailers will engage with the scheme, and exemptions. What are the key benefits or trade-offs of requiring every retailer to act as a return point, versus a system with a smaller number of centralised return points?



**Scott Wood:** We undertook fairly wide-ranging engagement on the proposals through the public consultation that we ran last year. We heard loud and clear that consumer convenience and accessibility would be critical to the success of the scheme. In excess of 90 per cent of respondents to the consultation called for a system that includes some form of retailer participation in returns—either return to retail solely, or return to retail supplemented by depot return. That would result in our having about 17,000 return points, and ensure that it would be as easy to return a container as it is to buy one. We think that that is important from a consumer participation perspective.

We have looked internationally at how other schemes operate. Some schemes work on a return-to-depot basis, which David Barnes might want to talk about in more detail. However, they tend not to achieve the capture rates that we are looking for from deposit return. There are a couple of exceptions in which particular geographical factors mean that the return-to-depot approach works, but we do not think that the approach is directly translatable to Scotland.

**David Barnes:** We see the depot model achieving high capture rates in Iceland and the northern Canadian provinces: the committee will understand why we think that that is not transferable to Scotland.

We looked at what would happen if we were to exempt retailers based on size—something between the depot model and all retailers being involved. We found that trying to come up with some sort of national accessibility criteria resulted quite rapidly in black spots in coverage—even by introducing quite small size exemptions.

I echo what Scott Wood said: it should be as simple to return containers as it is to buy them. We found that with exemptions that were based on size or on sales data at national level we would lose that, which is why the regulations provide for potential exemptions at local level, instead.

**Angus MacDonald:** You have looked at international examples extensively, but based on those, have you estimated what proportion of retailers might seek an exemption from acting as a return point? When small retailers apply for an exemption, they would have to identify alternative local return points, but the scheme administrator would have already done that. Could that regulation be changed to put the onus on the scheme administrator, rather than on the retailer?

**Scott Wood:** The particular tests that we are looking to apply for exemptions for individual return points will not directly mirror the arrangements in other jurisdictions: there is not a lift-and-lay approach being taken to retailer

exemptions. However, we are working actively with retailers, through our retailer working group, to understand how they would like to see such exemptions work, and on the design of the arrangements.

The regulations have been drafted so that they allow ministers to award exemptions in the absence of an application from a retailer. Theoretically, there is a scenario in which we end up with a single scheme administrator that works with retailers across the country, identifies the optimum network of return points and then presents us with a list, as the basis on which we make judgments.

Alternatively, it is open to individual retailers to come to us and submit an application setting out the steps that they have taken to identify an alternative return point that is within reasonable proximity and is similarly accessible. We can use two routes.

On the regulations being adjusted to place the obligation directly on the scheme administrator, there is no absolute requirement in the regulations that a scheme administrator be established. It is open to producers to take that step.

**Angus MacDonald:** Okay.

Where retailers will accept returns manually, what arrangements do you anticipate will be needed to ensure that materials are handled safely, particularly given that glass will now be included in the scheme?

**David Barnes:** As Scott Wood suggested, we are working with the retail working group to establish the principles that it would like. International experience shows that there are two key considerations for the range of materials that we are considering. One is that glass needs to be kept separate, because of weight considerations. We have seen elsewhere that people end up with a two-containers solution. Almost universally, those containers are bags—one for plastic and cans, which are lightweight and do not pose much of a manual-handling issue; and a smaller bag for glass, both because of weight and so that the member of staff who is handling the bag is aware of what is contained in it.

The regulations have been designed so that the member of staff who is taking the containers can be confident that the container is in good shape—it needs to be whole and identifiable as a scheme container. Once they have that, the operations that we have seen elsewhere require the application of good practice—just as retailers employ when they unload stock from vehicles or load containers on shelves.

Such practices should be familiar to staff, but retailers have said that they want to ensure that

the scheme is designed with all that built into it. That includes making sure that bags are of appropriate size, that there is a mechanism to seal them when they are full and that, if there is damage to containers, the bags are thick enough not to rip. Those are all manual-handling health and safety issues that producers and the scheme administrator will have to manage. It will be up to them to decide how. We are trying to communicate the good practice that we have seen elsewhere, and to ensure that, if it is transferable, it is brought into the Scottish context.

11:30

**The Convener:** We have only 30 minutes left, so perhaps we can keep our questions and answers succinct.

**Angus MacDonald:** What practicalities are involved in requiring online sellers to apply the deposit and accept returns? Where are you on that?

**Scott Wood:** Do you mean specifically in relation to take back?

**Angus MacDonald:** Yes.

**Scott Wood:** The starting point on that is that ministers do not want anyone to be unfairly penalised as a result of the introduction of the deposit return scheme. We know that some people cannot readily access physical retail premises—one reason could be lack of mobility. It is important that such people can redeem their deposits just as anyone else can. That is the underpinning principle of take back. Ultimately, we expect that it will be those people who will most routinely use the take back service that is provided for in the regulations.

Other members of the community will occasionally buy particular products online, but the majority of the time they will purchase single-use drinks containers from shops. It will make sense for those people to return all the containers to physical retail premises, because that will be the most efficient and quickest method. We think that online take back will be used primarily by people who rely on online grocery shopping.

The regulations have been drafted to afford a degree of flexibility to online retailers in meeting their obligations. An online grocer might, for example, accept empties when the weekly shop is dropped off to the consumer. Alternatively, it will be open to the online retailer to contract with a third party to provide the service when that is required. We can envisage circumstances in which the scheme administrator offers that service. We want to afford online retailers the flexibility to meet their obligation in a way that meets their needs.

**Mark Ruskell:** How have you structured the handling fees that go back to retailers for administering the scheme? For example, there seems to be a disparity between the handling fees that are payable to retailers and those that are payable to the hospitality sector.

**Scott Wood:** The main difference is that the handling fee in respect of hospitality services covers only the materials that are used for the purposes of collecting and storing. The rationale is that, at the moment, hospitality businesses already deploy staff to collect material and store it in preparation for its being taken away. Therefore, there is no additional cost to hospitality premises through introduction of the DRS. The only additional cost for those premises would be for containers or materials that they require specifically for the purposes of the scheme.

**David Barnes:** The key thing to be aware of is that that will apply only where such premises manage materials that they would be managing anyway. If hospitality premises choose to act as return points and take other containers, they will get the handling fee for those other containers and will be treated exactly as would any other return point. The situation is exactly as Scott Wood described. Because such premises manage the material anyway, where there is a closed loop with on-site consumption, no additional effort is involved.

**Claudia Beamish (South Scotland) (Lab):** I want to focus on the scheme's environmental objectives and the impact that the Scottish Government is aiming for on recycling rates, littering and greenhouse gas emissions. How can the benefits be maximised?

**David Barnes:** Stage 1 of the full business case spelled out some of the benefits that we see for Scotland. We are talking about 4 million tonnes of CO<sub>2</sub> emissions being avoided over 25 years, and more than 160,000 tonnes of additional material being available for recycling, with real economic opportunities from that improved recycling quality.

Most of the negative impacts that are associated with litter are volume related—it is the visual impact of litter that causes the problem—and drinks containers make up about 50 per cent of the volume of litter on our streets. We think that the scheme will make a substantial contribution to litter prevention and the strategy of a litter-free Scotland.

**Claudia Beamish:** I have two more questions, so I will ask them both at once and whoever wishes to answer can do so.

First, how can the infrastructure and transport arrangements for materials be made more sustainable? When committee members went to Norway, we saw that the scheme there is bringing

transport provision into the local economy, which seems a positive way forward.

Secondly, in relation to the circular economy and opportunities to increase reprocessing capacity in Scotland, you have highlighted that there will be a dedicated workstream in relation to PET, but is there a workstream looking at glass? Concerns have been expressed to me about glass manufacturers that already operate in Scotland.

**David Barnes:** On making most efficient use of existing infrastructure, such as transport logistics and bulking points, the key thing to remember is that the scheme administrator will, we expect, be interested in making the process as efficient as possible, because that will keep costs down for producers. A producer-led scheme bakes in the efficiency drive for the scheme administrator.

As part of our preparation to support that, we are trying to identify existing waste-management sites, waste-collection operators and parcel-delivery companies that could offer the services that the scheme administrator will require. We have been engaging with such operators in order to understand their capacity and infrastructure, and their level of interest in being involved. Fundamentally, it will be up to producers to decide whether they want to explore that.

We think that it will, especially in rural parts of Scotland, make most financial sense to use existing infrastructure. If we can provide the contacts and get potential suppliers thinking about how they could be involved, that will maximise the opportunity for that to be the case.

The reprocessing workstream is looking at all the materials and infrastructure, and not just PET. We talk about PET reprocessing because, in the Scottish context, the scheme creates a unique opportunity to aggregate the amount of material that is required potentially to attract inward investment in new infrastructure. At the moment, the material is spread over a large number of people, so such investment is not viable.

However, that does not mean that we are not interested in looking at how we can maximise the use and economic value of all the material. We are aware that significant glass-reprocessing capacity is available in Scotland already. There is demand for the glass industry to increase the recycled content that comes into the furnace, not just because of environmental drivers and customers' desire for material to have increased recycled content, but because of the business drivers. Using recycled glass uses about 20 per cent less energy than when virgin cullet is fed into the process, so that is a real driver. We want to work with the glass industry to reassure it that the deposit return scheme will provide the quantity and quality of material that it wants to support the

existing Scottish success story that is our glass-reprocessing capacity.

**Claudia Beamish:** Thank you.

**Mark Ruskell:** How might local authority recycling schemes change as a result of the DRS? Will the household recycling charter require an update?

**Scott Wood:** The material that will be captured through the DRS takes up capacity in existing kerbside recycling services. There is an opportunity for us to review that and explore opportunities for expansion—perhaps, in future, to cover different materials. In anticipation of the introduction of the DRS, we are committed to reviewing the household recycling charter code of practice. Some of that work has already commenced. The first meeting regarding that update has now taken place.

**Mark Ruskell:** What does that look like on the ground? Is it more kerbside sorting or continuing with commingled low-grade waste?

**Scott Wood:** No firm conclusions have been drawn on that yet. We are keen to understand the capacity implications of the DRS and how best we can work with local authorities to take advantage of those.

**Mark Ruskell:** How have the local authorities responded to the regulations that you put forward?

**Scott Wood:** I have not heard a great deal of direct feedback about the regulations. I do not know whether any representations have been made in the course of conversations that Ginny Gardner has been involved in.

**Ginny Gardner (Scottish Government):** We have had no direct feedback. Has Zero Waste Scotland had any feedback?

**David Barnes:** We have not but, on Thursday and Friday this week, I will be at the Convention of Scottish Local Authorities in St Andrews, where I expect that local government colleagues will take the opportunity to ask me questions.

**Mark Ruskell:** COSLA has not fed into that directly.

**David Barnes:** Local government and the private waste management industry have been involved in the process. They fed into the scheme design. Zero Waste Scotland held at least three workshops and spoke to the waste managers network on two occasions.

As Scott Wood indicated, the review of the household recycling charter code of practice is being commissioned. The DRS regulations do not place any obligations on local government. However, now that the regulations are in the public domain, that allows local government to ask the

type of questions that you have been asking, such as, “What does that mean? How do I best use the capacity of the bin?” Having been involved in delivering the kerbside recycling service for Midlothian Council and doing that type of review, I know that the first question is, “How much material do we expect to collect and how many containers can our housing stock facilitate?”

In relation to drinks containers, taking out the weight of glass and the volume of PET and metal drinks cans opens up opportunities that would not exist if those materials were collected. We expect local government to probe to find the right solution in this brave new world.

**Mark Ruskell:** We will wait and see with that.

At the beginning of the session, you mentioned the estimated savings to local authorities. The figure is partly predicated on their current use of landfill. A lot of local authorities are now moving to incinerating waste that has low economic value for recycling. Have you taken that into account? How much agreement is there on the figure of £237 million of savings? Have you had feedback from local authorities on that? Are the savings real and tangible?

**Scott Wood:** We have taken account of that factor in the modelling. Up until now, we have described the steps that we are taking at a national level to understand the collective impact on local government. Alongside that, we are taking forward discussions with 30 of the 32 local authorities—we hope to cover all 32—to understand the practical implications for their waste management services. We have developed a tool that we have shared with each local authority. Representatives from Zero Waste Scotland go out and work with each local council to understand the implications and opportunities of the DRS for their services.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** There are two aspects to my questions today. The first is timing and implementation, and the second is cross-border implications.

I will ask you three questions first, which you can answer all together. Do you believe that it is practical to expect producers to have their reporting systems in place to meet the compliance monitoring requirements by April 2021? Can you share with us whether the DRS implementation advisory group believe that the timetable that is set out in the regulations is achievable? Could you highlight in your answer the potential challenges of delivering a DRS by 2021?

11:45

**Ginny Gardner:** As you know, we have caveated the dates in the regulations, because we want to have continuing discussions with all parts of the supply chain about deliverability. I would say straight away that those discussions are still ongoing, so we have not come to a conclusion about that. There are various aspects that people in different parts of the supply chain are looking at. Producers need to consider lead times for packaging changes, and infrastructure retailers are considering lead times for changing what they do in stores. Wholesalers also have issues to consider. Furthermore, there may be external factors that are not to do with a deposit return scheme that people in parts of the supply chain wish to raise with us.

We have not yet concluded all that work, so I cannot give you a definitive answer on the practicality of delivery. You will be aware that different stakeholders have said publicly that they feel that there are challenges. Our discussions are intended to understand the significance of some of those challenges in a bit more detail. We are working to a position that will inform the final commencement date, before we start the affirmative procedure for the regulations.

**Rachael Hamilton:** How long will it be until those conversations are concluded? When will you be able to inform the committee about the retailers that you have still to speak to and the challenges that they are highlighting? When will the implementation group let us know about those conclusions?

**Ginny Gardner:** As I say, the last point will be the point at which we lay the affirmative regulations, which we are expecting to be around the turn of the year, as that is the point at which we will need to have a final date. There are several discussions going on with the implementation advisory group between now and then, and the next one is tomorrow. We are continuing to have those conversations as we go on.

**Rachael Hamilton:** Do you anticipate that Zero Waste Scotland, as a delivery partner, will help with that implementation? Is that the expectation?

**Ginny Gardner:** Zero Waste Scotland is certainly supporting implementation. David Barnes has already mentioned some of the investigations that it is doing on infrastructure, which will help to move things on. We have a European requirement to have a set 12-month period between deciding on the scheme through the regulations and requiring businesses to implement it. Anything that we decide will involve at least that 12-month period of preparation.

**Rachael Hamilton:** Could I ask you a bit more about that? I know that your timings are caveated. You have considered international examples and the delivery model that has applied. Are you flexible? I take it that you are not stuck on April 2021. If significant challenges are thrown at you, are you happy to consider putting the timing back?

That lands nicely with my second question: would you consider, because of some cross-border implications and possibly fraud implications, that your timetable needs to be considered alongside or parallel to what the UK Government is doing with its systems?

**Ginny Gardner:** On the first point, the reason why the timings are caveated is that we want to explore with the industry what is achievable. We need to understand a lot of the detail that sits under that in order for the cabinet secretary to make a final decision on implementation.

As for the link with what is happening in England, I think you are aware that the cabinet secretary has made a decision that, because of the climate change commitments, we cannot afford to wait for a UK system to be decided on. The UK still has to decide on several steps. It has not decided whether there will be a deposit return scheme, and such a scheme will require powers to be provided for in primary legislation. It also intends to have a further consultation on proposals for 2020 leading to implementation in 2023.

**Rachael Hamilton:** I will wrap up my questioning because I know that we are short of time.

What cross-border implications will the scheme have for fraud? I understand that it is up to producers to counter the possibility of fraud. What challenges have been brought up by some of the retailers you have spoken to?

**Scott Wood:** The full business case stage 1 that was published in May recognised the potential for fraud in such a scheme. Some of the estimates that are included in that document are based on international experience of fraud.

The regulations are silent on the nature of fraud prevention mechanisms that are to be implemented by producers to mitigate the costs associated with fraud. We have heard from producers that they will head in the direction of distinct Scottish labelling for their larger volume products. We were keen to ensure that there will be a degree of flexibility in the regulations to accommodate the more marginal lines, for which the level of anticipated fraud would not justify as significant a change in production processes as would be required to introduce a separate Scottish stock-keeping unit.

That applies to the marginal lines of large producers, but it also applies to smaller producers whose space in the market is not as significant; the costs of introducing such labelling would be detrimental to them. We are keen to afford a degree of flexibility in the approach that producers can take to the issue. Judgment about the most effective fraud prevention measures will be made by individual producers and any scheme administrator that is put in place.

**The Convener:** Finlay Carson has a quick supplementary question on that.

**Finlay Carson:** I believe that April 2021 is more of a political ambition than a realistic one. Given that the UK Government has intimated its ambition to set up a DRS before 2023, at which point do you look at the benefits of having a UK-wide scheme in relation to fraud, cross-border trading, labelling, warehousing and so on? At which point do you consider the benefits of waiting until there is a UK DRS?

**Ginny Gardner:** That question would be best addressed to the cabinet secretary when she gives evidence. The Government position is that we should proceed as quickly as we can with a deposit return scheme in Scotland.

**Finlay Carson:** Will you have a calculation of the cost of introducing a DRS in isolation compared to what it would be if there was a UK scheme? That is quite important. If there are going to be additional costs when it comes to fraud or cost to industry, there is bound to be a sensible limit to the cost of bringing in the scheme early.

**The Convener:** We need to be aware that the witnesses are Government officials and some of these questions are for the cabinet secretary. If you are comfortable with it, you can answer the question.

**Scott Wood:** The modelling that we have done through the full business case stage 1 and the business regulatory impact assessment sets out the cost that is associated with operating a distinct Scottish scheme, and the wider costs to business that are associated with participation in that scheme. We have done the modelling on the basis that we have a Scottish scheme in the absence of a UK scheme.

**The Convener:** We have some final questions from Stewart Stevenson.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I want to focus on the scheme administrator and the detail of how that might work. I will start on how it is to be funded.

It is estimated that the scheme will require an up-front capital investment of £28 million, and it will be a private administrator. Who owns the private administrator? I presume that it will have to

be a limited liability company in some form. Who owns the shares?

**Scott Wood:** The corporate structure of any scheme administrator that is established will, I suppose, be determined by its membership. We have not set out a fixed view on the corporate structure that should be adopted. Our approach has been to place legal obligations directly on producers and to allow them to appoint an agent to act on their behalf in meeting those obligations. The full business case suggests a model that we think could effectively deliver a deposit return scheme and we are using that to guide and inform our discussions with industry. We will update the full business case in consultation with industry over the coming period. Therefore, the full business case stage 2 may more fully reflect the feedback that we are receiving from industry about things such as corporate structure and the funding arrangements for any entity that comes into being.

**Stewart Stevenson:** Let me ask about some of the accounting. It is said that the scheme will be funded through unredeemed deposits and material value. Obviously, if there is 90 per cent recycling, that leaves 10 per cent for which the deposits are taken in but never paid out. At what point does that money transfer from the bucket for deposits that will be paid out into that for unredeemed deposits that the company can use to fund its operation? I can see that 10 per cent of the deposits will be a reasonable-sized sum and I am anxious to ensure that the people running the scheme administrator are not driving better cars than any of us in this room, for example.

**Scott Wood:** A 90 per cent capture rate is the statutory target. We anticipate that, if we end up with that and the scheme administrator chooses to use unredeemed deposits as a source of revenue as well as generating revenue from materials, there will always be an outstanding balance. That additional sum of money will have to come from the producers and it is not in their interests to pay more to a scheme administrator than is absolutely necessary. In other schemes, those entities tend to be operated on a non-for-profit basis; they are managed by the producers, with retailer involvement, given their central role in the operation of the scheme. If we create a framework that allows a producer to choose to appoint a scheme administrator to act on its behalf, it is unlikely that the producer will pay the scheme administrator significantly more than is necessary to receive the service.

**Stewart Stevenson:** I am trying to understand whether the Government might have a role in deciding when deposits are permanently unredeemed. I do not know how long it is thought that the gap will be between the 20p deposit being handed over to the retailer and it going back to

someone who is recycling. That will presumably vary from product to product. The concept is similar to what happens when Scottish banks issue banknotes. Five per cent of the banknotes vanish and are never seen again and the Scottish banks can get the money back from the Bank of England, but not all of it and not very quickly. As well as asking that question, I am asking whether, if too much is drawn out of the deposits, it will leave the liability still resting with the producers, even though the scheme administrator has spent money that it should not have.

**Scott Wood:** My understanding from the way in which the regulations are drafted is that the liability would always ultimately fall back on to the producers. It is not for ministers to determine the point at which we can genuinely say that a deposit is an unredeemed one; there will be an audit requirement on the scheme administrator. The auditors will require to see evidence demonstrating that those deposits are genuinely unredeemed.

The full business case stage 1 sets out that it is likely that the scheme administrator will need to operate an observatory period. We have suggested that that could be five years, initially. That is a conservative estimate and further work will be done to establish what that observatory period needs to look like. Over the initial observatory period, it would not be possible for the scheme administrator to utilise unredeemed deposits as a source of revenue. Instead, the operating costs would need to be met through sale of materials and any producer fee. There is the potential for the scheme administrator to accrue a significant cash balance during that period, because all those unredeemed deposits would be sitting there. However, until such time as the auditor has agreed that those deposits are genuinely unredeemed and can be used to fund the system, the scheme administrator will not be able to use them for any other purpose.

**Stewart Stevenson:** In essence, therefore, that money will be held in escrow and drawn down in a formal way, and the initial period will be at least five years.

**Scott Wood:** We have included an estimate of five years. We believe that that is conservative, but it will, ultimately, be for the scheme administrator to satisfy its auditor about the unredeemed nature of deposits.

**The Convener:** We have run out of time. I thank all the officials for their time this morning. That concludes the committee's business in public. At its next meeting, on 29 October, the committee will hear from the Cabinet Secretary for Environment, Climate Change and Land Reform on the UK's exit from the European Union, as well as hearing evidence from Scottish Government officials on

the Animals and Wildlife (Penalties, Protections  
and Powers) (Scotland) Bill.

12:00

*Meeting continued in private until 12:49.*





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