



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Environment, Climate Change and Land Reform Committee

**Tuesday 19 November 2019**

**Session 5**



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**ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE**  
**31<sup>st</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 (Etrick, 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:**

Roseanna Cunningham (Cabinet Secretary for Environment, Climate Change and Land Reform)  
Don McGillivray (Scottish Government)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

Committee Room 1



## Scottish Parliament

### Environment, Climate Change and Land Reform Committee

Tuesday 19 November 2019

[The Convener opened the meeting at 10:16]

#### Subordinate Legislation

##### Conservation (Natural Habitats, &c) (Amendment) (No 2) (Scotland) Regulations 2019 (SSI 2019/320)

##### Waste (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/356)

**The Convener (Gillian Martin):** Welcome to the Environment, Climate Change and Land Reform Committee's 31st meeting in 2019. I remind everyone to switch off their mobile phones or put them on silent, as they can affect the broadcasting system.

Agenda item 1 is to consider two negative instruments: the Conservation (Natural Habitats, &c) (Amendment) (No 2) (Scotland) Regulations 2019 and the Waste (Miscellaneous Amendments) (Scotland) Regulations 2019. Do members have any comments on either instrument?

**Members:** No.

**The Convener:** Does the committee agree that it does not want to make any recommendations in relation to the instruments?

**Members indicated agreement.**

**The Convener:** I will suspend the meeting briefly.

10:16

*Meeting suspended.*

10:28

*On resuming—*

### Proposed Deposit and Return Scheme

**The Convener:** Welcome back. Under agenda item 2, we will hear from the Cabinet Secretary for Environment, Climate Change and Land Reform and her Scottish Government officials on the proposed draft regulations for the deposit return scheme. I am delighted to welcome Roseanna Cunningham; Don McGillivray, who is deputy director of the environmental quality and circular economy division; Scott Wood, who is team leader in the circular economy unit; and Emily Freeman, who is a solicitor. Good morning to you all.

I believe that the cabinet secretary wants to make an opening statement.

**Roseanna Cunningham (Cabinet Secretary for Environment, Climate Change and Land Reform):** Yes. Thank you, convener. I will be brief.

The committee has heard evidence from stakeholders on the deposit return scheme plans. That builds on the extensive dialogue that my officials and I have had with partners over many months—indeed, it would probably be more accurate to say years. There seems to be a general acknowledgement that, if correctly targeted and properly planned, deposit and return can drive the circular economy improvements that we want and contribute to our net-zero ambitions. Such schemes have been key to the success of several of our European neighbours in increasing the quantity and quality of recyclate as well as delivering wider economic benefits.

The Scottish Government's response to the climate emergency will require decisive action across a broad range of policy areas. Our DRS proposals must be viewed in that context. Strong public support exists for our plans, and I am committed to delivering an ambitious scheme that properly responds to our current challenges.

Inevitably, there are some who are concerned about specific aspects of the scheme—notably the inclusion of glass. Our business case shows that the benefits of including glass from the outset more than offset any costs. By increasing glass recycling, we will realise significant carbon savings, reduce glass litter and create a new feedstock of high-quality material. The point about litter in particular has been somewhat lost in the debate, and it should not be overlooked. Glass litter is a blight on communities. Broken glass can and does cause physical harm to people and animals, and the issue has to be addressed.

10:30

I am also aware of arguments that we should wait for a United Kingdom scheme to be delivered. Those are not new arguments. Of course I remain open to exploring the potential for co-operation, but that means each of the other nations stepping forward and demonstrating the same level of ambition that we have. Our neighbours are still a long way behind us, and the general election casts yet further uncertainty on their plans.

I understand that DRS represents a significant change to the current supply chain arrangements, but we should take comfort from the fact that many other countries have successfully delivered deposit and return. Each of them will have faced its own particular challenges and, to my knowledge, all of those have been successfully overcome. It is surely not beyond us to do likewise.

I am committed to working with industry, non-governmental organisations and others to make DRS a success, and I am grateful to all those who are represented on our implementation advisory group and its working groups. Those spaces provide the opportunity to get to grips with the technical details of delivery so that solutions can be developed. Many of those solutions will ultimately be a matter for those in the industry itself, likely working together through a scheme administrator. To my mind, that is what extended producer responsibility is all about.

We are continuing to analyse the delivery programme for DRS, and we have sought input from industry stakeholders. I will reflect on that further analysis once it is complete, just as I will reflect on the committee's views before I decide on the implementation date to be included in the final regulations. I am conscious of the need to get DRS right.

Our conversations with partners have extended to the detail of the regulations, and we will, of course, give due consideration to the committee's feedback. I look forward to continuing the engagement once we commence scrutiny of the final regulations through the affirmative process in the new year.

**The Convener:** Thank you very much. We have an awful lot of questions to ask you, so we will get straight into them. We will start with the materials in scope.

**Finlay Carson (Galloway and West Dumfries) (Con):** Good morning, cabinet secretary. What criteria did you use to determine which materials should or should not be included in the scheme? Which exclusions gave you the most difficult decisions to make?

**Roseanna Cunningham:** Overall, we considered which materials that we see out there cause the biggest problems. At a superficial level, that was straightforward. We looked at plastic, because that is what we see. Although we made an announcement on what we were doing before David Attenborough's "Blue Planet II", that programme reinforced the plastic issue.

Aluminium cans—or what we would call tin cans—are all over the place, but that product is quite valuable. Glass was considered because of the carbon savings and the litter blight. There were issues with things that we excluded that were not so much about the products themselves but about what they tended to contain. We do not have solutions for the issues with foodstuffs and potential contamination, and it seemed sensible to make exclusions at this early stage until we had better answers about potential solutions to contamination. In the broadest sense, that is what lay behind the decisions that we made.

The decisions on plastic and aluminium were very straightforward. I think that I have been fairly open about the fact that we had to make a value judgment about the inclusion of glass, because we know that, with its weight and volume, it creates a different issue. Equally, as far as I understand, it is the most concerning thing for the public because of its dangers if we do not pick it up. Currently, it is not being effectively picked up and recycled.

**Finlay Carson:** I will go back to statements that you have made about aluminium cans. However, first I want to focus on the issue of glass, which is probably the most controversial issue. How has the Government responded to concerns about glass inclusion and concerns that the Government has not looked at the business case or fully tested the cost benefits of systems with and without glass? What consideration did you give to the industry-proposed alternative? We see recycling rates of 65 per cent at the moment. Why was more work not done to consider whether some of the alternatives could be more cost effective and less disruptive?

**Roseanna Cunningham:** We looked quite carefully at all of those things. DRS will significantly increase the quantity and quality of glass recycle. The alternative proposals that have been put forward would not do that to anything like the same extent.

We do not think that improved extended producer responsibility—or EPR—will deliver increased glass collection to the desired level within the same timeframe. We looked at the potential that existed through including glass in the scheme as opposed to two things. If glass is not included at the start—I think that I have said this on a number of occasions—it is very difficult to retro-engineer it into the system. The alternative

way of dealing with it would simply not deliver the increase in recycling that we want. The rate is 65 per cent now. The half a dozen countries in Europe that include glass in their deposit return systems get returns of between 80 and 90 per cent. That is why we have pitched our intention at 85 per cent for glass.

Those issues were all part and parcel of the discussion that we had. On balance, my view was that the difficulty of re-engineering or retrofitting was pretty significant if glass was not included from the start. In effect, we would be making a decision now to give up on including it in any real sense as part of a deposit return system.

**Finlay Carson:** It appears that there is some doubt about the issue. The inclusion of glass from the start might put pressures on the whole system's financial viability, but there is an opportunity later on, because reverse vending machines have a shelf life, and they will have to be replaced. There could be options in the future to introduce glass without retrofitting, because the machines have a lifespan and we might be looking at machines being replaced within 10 years. That might allow DRS to develop to allow glass in a way that would not put so much pressure on the scheme's financial stability.

**Roseanna Cunningham:** In 10 years' time, it will be 2030, and the Parliament has voted for a 75 per cent emissions reduction. I want to put that out there. Ten years might seem like a very long time, but it is not a very long time when we are looking at all of this.

Finlay Carson may be right. Reverse vending machines may have a lifespan of 10 or 11 years, but they will not all fall over at the same time. It is very difficult to see how glass can be introduced when the first one falls over. Six months later, another one might fall over. They will not all go at the same time. Finlay Carson's 10 years would probably end up being more like 15 years as people replaced reverse vending machines, with the glass bit being inoperative until we introduced glass in the scheme. You are talking about quite a considerable amount of time and difficult management to figure in. We thought about those things, and that is why we included glass right from the start.

Introducing a brand new deposit return system is, of course, challenging. Some countries have done it from beginning to end. I think that Estonia did that within six months, but it had some problems in doing it as quickly as that. I am not suggesting that we should try to do it in six months, but some countries have set systems up from the get-go.

I appreciate that it is challenging. However, we would give ourselves even bigger challenges if we

seriously thought that we could set up a plastic and aluminium system and tried to engineer glass into the system at some future point—perhaps between 10 and 15 years down the line. That would be a harder sell than the discussion that we are having at the moment.

**Claudia Beamish (South Scotland) (Lab):** Good morning, cabinet secretary and the panel.

When a deposit return scheme was first mooted, concerns were expressed to me and possibly to other members—I cannot speak for them—about the inclusion of anything. There was concern about plastic and tins, and a lot of reassurance was given about where we were going. To be open about it, there have been quite a lot of demands on my time from the glass industry wanting to meet me.

It is quite clear from the figures that glass is a danger—I am sure that the cabinet secretary will agree with that, as she has highlighted it already. It is not only a danger on beaches; it is in playgrounds—I know that from having been a teacher—and in a whole range of places from which we need to remove it.

I have two questions. First, concerns have been expressed about the handling of glass, particularly in small retail outlets, and how that would be dealt with. To state the obvious, glass can break. Do you or your colleagues have any comments on that?

Secondly, I seek reassurance on behalf of Unite the union, with which I have had a meeting, and the industry more widely. There is a risk to the future of the manufacturing of glass. Apparently, evidence on that has been given from other countries, but nobody has ever told me exactly where. Can you reassure people about that?

I am sorry. They are long questions, but I want to try to get to the nub of the matter.

**Roseanna Cunningham:** On the first question, we are committed to testing different storage and handling solutions for glass. There is an on-going conversation about that. Zero Waste Scotland is taking tests forward. There are tests of different container solutions for the storage of glass that has been captured through manual take back. Let us remember that there are different approaches. There are machines that people just pop something in, and they deal with it. If we are talking about smaller places, there is manual take-back. Tests will be conducted through December and January, so you are just a little ahead of the game for me to be able to say anything about what will happen. However, we are actively looking at that.

What emerges from those tests will result in the ability to discuss matters with the industry and

support it in reaching decisions. We must remember that that will be how the industry itself will reach management solutions. The tests will feed into the process, and industry can come up with decisions on how best to manage glass that is captured through the scheme. The tests will build on the experience of other deposit return schemes that successfully collect glass through manual returns. Manual returns are the issue there.

On other schemes, I am not aware that we have any hard evidence at all that a deposit return scheme that includes glass has somehow meant a reduction in the desirability of glass. Most decisions about what goes into glass seem to come from the different perspective of presentation, production and sellability. Parts of the sectors that you will talk to are concerned that, if glass is out of the scheme, that will shift the direction of travel the other way. We have to grapple with all of that, and we are doing that in the discussions. The glass industry is perfectly entitled to try to make its arguments, of course. We need to look at the evidence.

10:45

As I have indicated, there are some interesting stories to be told about deposit return systems that include glass. I tend to focus most on the six in Europe, because people can easily visit them. However, about six weeks ago, I had a discussion with the South Australian environment minister, who told me that South Australia has had a deposit return scheme since the 1970s and that it only included glass partially because the wine industry was so big that it was able to lobby against wine bottles being part of the process. The concern now is that that policy decision in the 1970s was a really bad mistake, that all glass should have been included, and that exemptions should not have been made for certain industries.

There are examples from other systems that will not necessarily fit with some of the glass narratives. It is useful for everybody to engage directly with the glass industry in that conversation.

**Claudia Beamish:** I am happy to engage, cabinet secretary, but I have simply been quite busy.

**Roseanna Cunningham:** I know. It is hard work.

**Mark Ruskell (Mid Scotland and Fife) (Green):** Do you think that there will be a shift away from the use of glass, particularly for single-serving soft drinks bottles? We are not going to be buying whisky in polyethylene terephthalate bottles anytime soon—I am not, anyway—but surely with single-serving mineral water bottles, the cost of renting the glass through the DRS will

mean a shift away from glass. I am not saying that that is a bad thing.

**Roseanna Cunningham:** The cost of renting the glass is 20p, so we are not talking about an enormous amount. There is no real evidence of that happening in other systems. I would need to be pointed to absolute crystal-clear evidence from other systems that it has happened. The difficulty is that glass has a cultural value. The decisions about what does and does not go into glass tend to be made for a range of reasons, and they are not all simply practical reasons. There are other reasons behind decisions to use glass.

It is difficult to measure the cultural, production and marketing imperative that might or might not result. Might it happen? Yes, in some quarters, but at the moment a lot of products are produced in a variety of container materials. It is not unusual for the same product to be available in glass, aluminium and plastic, depending on how and where you buy it and in what quantity at what time. That is the current situation and I would not expect it to change massively. However, you are asking me to see into a crystal ball—I wish I had one, but I do not.

**The Convener:** We will go back to Fin Carson, who will ask about other materials that are not in scope.

**Finlay Carson:** The committee has heard in evidence that paper cartons would benefit from being included because of their current low recycling rate. Given the widespread use of paper or cardboard cartons in the drinks industry, why was the decision taken to exclude cartons at this stage?

**Roseanna Cunningham:** I go back to what I said at the outset about other materials. The reasons for not including cartons are not necessarily about the containers; they are about what is in them. However, we have not ruled out including cartons. Unlike glass, cartons could be included as we go along. I welcome the interest by carton manufacturers. I am heartened by the fact that they strongly want to come on board, and we are continuing discussion with them. If we can find a resolution to some of the issues about what cartons are normally used for, the DRS is liable to move in a positive direction on that over the coming period.

**Finlay Carson:** Would it not have been more sensible to exclude products rather than the material that the products are held in? We could look at high-density polyethylene containers, which are largely used for milk but also for other products such as orange juice. HDPE has been excluded largely to exclude milk, so why do we not just exclude dairy products, which would then allow us to include card or paper cartons and

HDPE right from the start? Your argument is that it is cheaper and easier to introduce materials at the start rather than to do it retrospectively. Why are we looking at materials rather than the products that those materials hold?

**Roseanna Cunningham:** It is not as difficult to include cartons later as it would be for glass—the point about it being cheaper and easier was really with reference to glass. We think that cartons can be phased in. There are issues with contamination, because of the nature of what is in them. HDPE tends to be used for what is in effect a food—although milk comes in liquid form, it is actually a food rather than a pure liquid. That is one aspect.

Secondly, constructing regulations based on the product that is in the container would be fiendishly awkward. We have done it by material because the concern is about the materials that are ending up in waste or landfill or on the roadside, the beach or whatever. I think and hope that HDPE and some of the other less likely forms will be introduced. As I said, they can be introduced relatively straightforwardly if the contamination issues are dealt with, although there is a bit of a debate in the DRS industry about that. I have heard one manufacturer of the machines say that it is possible. However, the industry scheme in Norway is still a bit sceptical about it. That is an active discussion that is taking place in a number of other countries, and we will be part of that.

**Finlay Carson:** We will come on to material switching in further questions but, given your answers, I want to ask about that. There could potentially be a change from PET to HDPE. Have you made any assessments or calculations of the effect of material moves, such as dairy products being put into PET?

**Roseanna Cunningham:** No. From my understanding, there is a limited likelihood of that. That goes back to presentation—it is about the nature of HDPE presentationally. We are now seeing more of a clamour to be in the scheme than there is to be out of it, so I do not see that as being a direction of travel.

**Finlay Carson:** Canada has included dairy products in some places. I do not know whether you have looked at that, but there was a perception that drinks that did not have a deposit were somehow less environmentally friendly, so dairy products have been included so that people do not avoid them because of their perceived impact on the environment. Have you considered that?

**Roseanna Cunningham:** We are conscious that that has flagged in the Canadian system and we will continue to engage on that to see whether it was a real switch. We might challenge the view

that the reduction in the consumption of dairy products is necessarily because of the container. Other factors might be at play, given the changes in what people consume and the way in which they compile their diets. We would need to know and understand a lot more about that before we were convinced that it was simply because of the DRS.

**The Convener:** Claudia Beamish has a quick question on the scope before we move on to another subject.

**Claudia Beamish:** It is about the inclusion of new materials. Should regulation be necessary to add additional materials even if the scheme administrator and public opinion support an extension? Does the Scottish Government say that there should be regulations to add further materials?

**Roseanna Cunningham:** I am looking at the lawyer and the lawyer says yes. We would need to subsequently regulate to pull in more materials.

**Claudia Beamish:** But is it legally necessary to do that if the scheme administrator, public opinion and a range of others are agreeable? I am thinking about how to simplify things. Can I leave that question with you?

**Roseanna Cunningham:** I am told that it can happen in other countries, but we need to check our system here.

**Claudia Beamish:** That is great—thank you.

**Roseanna Cunningham:** Other countries may have different ways of doing things.

**Claudia Beamish:** We look forward to hearing from you on that.

**Roseanna Cunningham:** We are presuming that there will be regulation, but you raise an interesting point as to whether the scheme administrator could make a decision about including extra material without requiring parliamentary regulation. There is a bit of a conundrum. There are issues that constrain what we as a devolved Parliament can do that might mean that we have to do it by formal regulation. We do not have an answer to that, but it is a really interesting question, so thank you.

**The Convener:** We will move on to the return-to-retail model and return points.

**Mark Ruskell:** I have a suite of fairly detailed questions about how the scheme will operate. I will start with the role of small retailers and rural retailers. There is a focus on the importance of small retailers in communities acting as return points. Many of those smaller retailers will not be able to automate the system—they will not have reverse vending machines in their stores. What safeguards are there to ensure that smaller

retailers do not have a disproportionate burden in running the scheme compared to the larger retailers? Does the scheme disincentivise smaller retailers?

**Roseanna Cunningham:** We have very small retailers in our minds, which is one reason why we are not saying that everybody has to have a machine. There will be manual take-back. In Scotland, small retailers are key for a couple of reasons, the principal one being that the scheme has to be widely accessible and available. It would have been easy to have designed a scheme that worked only in Glasgow, Edinburgh, Dundee and Aberdeen, but we need to design a scheme that can work in more far-flung places. You do not have to go desperately far from Aberdeen, Edinburgh, Glasgow or Dundee to discover small communities where only a small retailer will be involved in the scheme. That has been an important part of what we have said all along, which is why we have kept the flexibility on the kind of return and have included manual returns.

There are other aspects. First, there is an issue about the funding and cost for small retailers if they want machines, so we are exploring how we can support that. The Scottish national investment bank will be engaged in the issue. All retailers, even tiny ones, will be entitled to a handling fee for each container, so a bit of money will come back in. We are working closely with the Scottish Grocers Federation and the National Federation of Retail Newsagents to prepare for implementation.

There will be benefits to small retailers. One of the small retailer groups—I think that it is the National Federation of Retail Newsagents—is really keen on being involved. It has been very positive, because it wants to ensure that people think about returning things to small shops and do not just pile them all up and take them to supermarkets. There will be benefits for small retailers, because the scheme will generate additional footfall.

There is also a point about exemptions, although I do not want to pre-empt you if you are going on to ask about that.

**Mark Ruskell:** I will be asking about exemptions, but fire away.

11:00

**Roseanna Cunningham:** In a sense, the question of exemptions applies mostly to small retailers. The reason why we did not introduce a blanket exemption based on retail space is simply because very quickly we would have excluded so many retailers that the scheme would cease to be as universally accessible as we want it to be. There might be some retailers where that aspect of what they do is very tiny. Our proposal is that

they can ask for exemption, but that will be done case by case rather than with a blanket scheme.

When I speak to any group of third sector or social enterprise organisations, I say that we are open to their being involved. Return points, however small, may well be set up that are not in a retail establishment. There may be real opportunities for community hubs to be involved. In fact, last week, I spoke at a conference with precisely that group of people and said that they need to engage strongly at this stage, because that may be one of the solutions that will work in very remote rural areas. We have thought carefully about the impact on small retailers and looked at potential solutions.

In case anybody missed it, I point out that we had a query about rates going up for premises that have reverse vending machines, but we have stepped in to ensure that that will not happen. The First Minister has made that announcement.

**Mark Ruskell:** Yes—we had clarification on that last week.

**Roseanna Cunningham:** I am sorry if I pre-empted some of your questions.

**Mark Ruskell:** We can come on to exemptions a bit later, but under what circumstances would it be appropriate for retailers to refuse returns? If somebody felt that it was a real burden, they could interpret that in whichever way they wanted and say, “I am sorry, I am not taking those bottles today”. How do you get around that?

**Roseanna Cunningham:** That is probably going to be something that the scheme administrator will need to consider, when that comes along. In other countries, the scheme administrator establishes a fair returns policy to ensure that there are sensible rules for returns, but it is for the industry itself to consider what is appropriate. If any retailer feels that the burden on them is disproportionate, we have allowed for case-by-case exemptions, so they would have the right to make a case in that regard. There would need to be a decision made involving a consideration of what else was available locally. There might be regional differences that make some of the solutions more workable than others. Do not forget that retailers get a handling fee for dealing with the material, so, by not being part of it, they will lose both the handling fee and the footfall. Our belief is that those considerations will become a strong motivation for a retailer to continue to accept the material, unless there are extremely good reasons for not doing so, in which case, they can apply for the exemption.

**Mark Ruskell:** In the case of a specialist retailer—for example, the distillery that I live next to, which sells glass bottles—should there be an ability for that establishment to be exempt from the

return of PET bottles, because they are not something that they are engaged with? They probably do not want all my kids' fizzy pop bottles coming back to the distillery. In the case of some specialist retailers, such as those that are, essentially, visitor centres, might we say that operating a fully functional RVM machine would be a bit beyond what is required?

**Roseanna Cunningham:** What we do not want is for the case-by-case exemption process to result in a de facto blanket exemption for particular kinds of businesses. The scheme administrator—because there are two ends to this discussion—would need to be careful about that. The process is designed to operate case by case, so that is the approach that should be taken.

I do not see how there can be a strong rationale to exempt specific types of retailers. We will work with the Royal Environmental Health Institute of Scotland to ensure that the scheme can operate in, for example, premises where food preparation takes place. You often go into a small cafe and see that there is one small fridge of things. The owner of such a small cafe might think, "I am selling bottles, so the scheme applies to me, but how am I going to manage this?" Such cases are the ones in relation to which conversations might be had on a case-by-case basis, but we are also ensuring that there are proper environmental controls on what can and cannot take place when there is food preparation.

I struggle to see how a distillery could justify not taking things back. If they are selling bottles through a retail outlet, effectively they are part of the system.

**Mark Ruskell:** Let me flip the question. If a shop did not sell alcohol for religious reasons, should it be required to take back alcohol beverage containers? That would be an exemption based on a particular stock line: alcohol products.

**Roseanna Cunningham:** I have not thought through the issue of religious exemptions. I am not conscious that that is much of an issue in Scotland. There are some faith groups that do not use alcohol, but I have not generally seen that as a barrier to selling alcohol. I am not sure whether you could point to more than a handful of such shops, if any, but, again, the scheme administrator might be tolerant of that argument on a case-by-case basis.

We will take that point away and consider it, but I would need to be convinced about the need for that exemption. I am not conscious of there being places that do not sell alcohol for that reason. There are places that do not sell alcohol for different reasons—for example, they do not want to have to deal with the regulations and so on around alcohol. Some years ago, following a

change in the law, some delicatessens and other speciality shops made a decision to remove alcohol from their sales. Of course, alcohol in glass bottles is only one part of DRS. Those places will still be in the scheme for everything else.

**The Convener:** I would like to move things on a little bit. Angus MacDonald has some questions about shared hubs.

**Angus MacDonald (Falkirk East) (SNP):** We have covered shared hubs and community-based solutions—

**Roseanna Cunningham:** Sorry. *[Laughter.]*

**Angus MacDonald:** I could give you a quick example, however. I have a place in the Western Isles on an island with just more than 200 people. There is a local shop that opens for only a few hours a day, but there is an active community centre that could act as the recipient for the bottles. There are good examples of where it can be done.

I will move on to the issue of online sales. We have heard some broad support for the inclusion of online sales, but details were sought on the practicalities. Can you confirm how the regulations apply in the case of third-party carriers? What regulatory requirements will there be on vehicles that are accepting returns and which might, for example, be delivering food?

**Roseanna Cunningham:** We know that there is broad support for including online sales in the scheme. I guess that we all buy things online from time to time. From the perspective of DRS, we need to be quite clear that whoever is the website operator will be considered to be the retailer. In some cases that will be the producer but, in most cases, people will engage in online purchasing through supermarket delivery, Amazon delivery or something similar to that. I need to stress that online purchasing is an important service, because, for a lot of people, it has become a bit of a lifeline. Therefore, we need to make sure that it is included.

The idea is that the operator, as the retailer, will have the deposit cost added to what is sold and will have to take back the bottles. It is likely that occasional customers will simply physically return the container elsewhere. For people who do their weekly shop online, there will be no difficulty: there will simply be a straightforward deposit return at the point of delivery. The retailers—that is, the website operators—will need to work that through. I asked this question fairly early on and found out that Norway already has this included in its scheme, so we are not inventing the wheel. It works elsewhere and it will work here.

**Angus MacDonald:** What about the issue of regulations regarding food delivery vans? As you say, the system works perfectly well in Norway, so there is no reason why it should not work here.

**Roseanna Cunningham:** Retailers are already considering different solutions in that regard, and we will continue to engage with them through the process of the implementation advisory group. The supermarket retailers use their own vans, and the issue might arise only in relation to people who routinely use things such as Amazon, which tends to use all different kinds of vehicles. However, it will be for Amazon and others to work out how they handle that.

**Finlay Carson:** I think that the issue comes down to practicalities and what we can and cannot do. In my constituency, which is in the Borders, there is a high level of purchasing online from retailers. This is purely by way of an example, and I do not want anybody to make any assumptions about my drinking or purchasing habits, but I have only a local shop in my area, so, if I was to go online to a European wine merchant and buy five or six crates of wine—[*Laughter.*] I might be having a party.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** I will be there.

**Finlay Carson:** We are talking about practicalities. What powers does the Scottish Government have to ensure that online selling will be included in the scheme? Do you think that that might reduce choice for Scottish consumers, because some companies might opt out if it is a Scotland-only scheme?

**Roseanna Cunningham:** If you were buying directly from the producer as opposed to through Amazon, the producer would have to be registered as a retailer in those circumstances.

**Finlay Carson:** So, you have control over Laithwaite's, for example—you can make Laithwaite's engage in a scheme if I am buying the wine online.

**Roseanna Cunningham:** Laithwaite's would need to be registered with us if it was going to sell into Scotland. We need to be careful here, but I am doubtful that its Scottish sales are so small that it would want to withdraw from the market. I do not know what its sales into Scotland are, but it is fairly well known and I would be surprised if it or a similar company decided to do that.

**Finlay Carson:** That might not have been a good example. There are other online retailers that may decide not to sell into Scotland because of the additional costs of engaging in a deposit return scheme. If we still buy the wine or whatever liquid in a bottle, how does the local shop deal with that?

11:15

**Roseanna Cunningham:** It is not a big hurdle for a company to register. It is not a huge obstacle. We want people who sell to register, so we are not making the registration process some great hoo-ha that will take up time, energy, cost and so on. Our intention is to make registration straightforward so that people who sell into Scotland are included in the scheme. It is not going to be a huge issue to get registration, so that argument goes out of the way.

The scheme administrator would probably have to have a look at the returns policy, but I can see that there might be an issue if somebody sources some highly individual thing from a completely different market and then takes it back to a return point. I think the scheme administrator would probably have to consider in those circumstances whether or not that was something that was required to be returned.

**Don McGillivray (Scottish Government):** If it is a scheme article, it is returnable. It is as simple as that.

**Roseanna Cunningham:** It would seem that it would be returnable and that is it.

**The Convener:** I am going to move things along. I am very conscious that we have a lot of questions to cover. Members should keep their questions short, and answers should be as succinct as possible. Claudia Beamish has a very brief question.

**Claudia Beamish:** The question could be answered now or later, cabinet secretary, which might make for an even quicker answer.

**Roseanna Cunningham:** It is a Claudia special.

**Claudia Beamish:** I would like clarity on the opportunity for consumers to donate their deposit to charity. Would that arrangement be local or national and how would that be decided?

**Roseanna Cunningham:** We are not dictating that that happen, but it happens in virtually every country that we know that has a deposit return scheme.

**Claudia Beamish:** Would that be decided by the scheme administrator?

**Roseanna Cunningham:** Yes, that would be the scheme administrator, but I cannot imagine that the administrator would not allow that to happen. As I said, it happens in most countries that have a DRS.

**Claudia Beamish:** Could it be done with some local consultation?

**Roseanna Cunningham:** Yes. People are accustomed to the carrier-bag charge. There will

be a small percentage of people who do not bother to return and for whom the 20p is neither here nor there. Every such scheme has that. The administrator will have to work that into the system over a period of years. Such things are manageable and doable and have obvious parallels in other schemes, from which we can learn.

**Stewart Stevenson:** We heard informally in previous evidence that installation and operation of a reverse vending machine, perhaps by a third party, would not have any effect on a business's net business rates; we were told that the First Minister said that to a conference. Can you confirm that?

**Roseanna Cunningham:** Yes—absolutely. That issue was raised with us and we addressed it directly. The decision was made that installation of RVMs would not impact on the rates bill. There was a fear that having a machine would mean that rates bills would go up. We have said that that will not happen.

**Finlay Carson:** I want to cover the implications of the flat 20p deposit. What criteria do you use to set the deposit level? Is it commonplace in other DRS systems for the deposit to be set by the Government?

**Roseanna Cunningham:** The deposit is often set by scheme administrators in other countries, but the enabling power that we are doing this under is the Climate Change (Scotland) Act 2009, which provides that Scottish ministers set the deposit amount through secondary legislation, as we are, obviously, currently doing. There is no power to delegate to a third party the setting of the deposit level. We are operating under the 2009 act, so we do that by statutory instrument rather than primary legislation. That is the technical regulatory reason why we have to do it this way.

Consumers will expect the Scottish Government to take a view on that to ensure that the deposit is set at a level that is neither excessive and makes it difficult for people, nor so low as to not have the desired effect. We fixed on 20p because our consultation indicated—somewhat to our surprise, it has to be said—that people thought that the deposit should be 15p or higher. I will be blunt: the 20p level is attractive because it requires only one coin that people can use easily.

**Finlay Carson:** I will go back to your first response. Is the driver behind having the Government set the level a technical difficulty or do you think that it is best that the Government set the level? There are lots of arguments for the scheme administrator, which needs the system to work well, to do it. There might be various levers that the administrator could use—for example, energy drink cans being set at a different level

because they are not getting the same return rate. Surely the administrator has the incentive to ensure that the scheme works. Is the decision to have the Government decide the flat fee purely down to a technical difficulty, or do you firmly believe that the Government is best placed to make that decision?

**Roseanna Cunningham:** No, the decision is not purely down a technical difficulty. There is a technical difficulty in respect of the administrator setting the rate, but it is not purely because of that that we have set it. We think the flat fee is sensible for a range of reasons. I hear and understand the arguments that are being made, but the scheme is also about behaviour change. To introduce a lot of different deposit fees would confuse things and might very well skew product delivery quite significantly. To set the deposit level at 5p for one set of things and at 25p for another set of things would build into the system quite a significant incentive to move to a particular kind of container. I think the flat deposit level is sensible.

There is much agitation around me, because the officials want to talk about the technicalities, which is what officials like to talk about.

**Don McGillivray:** What the cabinet secretary said about the legal position is correct. I want to be very clear on one thing: the Government has the option to do nothing on the deposit and to leave it to the scheme administrator. For the policy reasons that the cabinet secretary has set out, we have chosen to set the deposit through regulations.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** Other successful DRSs have introduced a variable rate to reflect different sizes of container. Do you believe that a variable rate is too complicated for the Scottish consumer to understand?

**Roseanna Cunningham:** No—and I will not have such words put in my mouth, thank you very much. That is not why we have chosen to go with the flat fee. The flat fee is straightforward, but the scheme is also about massive behaviour change—we are now probably a couple of generations past the behaviour being the norm. People's elderly parents or grandparents will probably be wondering what on earth I mean—I see that Stewart Stevenson remembers it himself.

**Stewart Stevenson:** Yes.

**Roseanna Cunningham:** They will probably be asking what on earth everybody is getting into a fuss about because such things were absolutely the norm. We have to understand that the vast majority of the population are not accustomed to returning containers. My view is that to make it straightforward and as easy as possible is sensible.

**Finlay Carson:** I will move on to something that we touched on earlier—the risk of customers upsizing and shifting away from certain materials. A recent survey by Alupro suggests that the additional cost of the deposit on each can in multipacks will mean, for example, that a 24 pack of 330ml cans could go up by 80 per cent, but the increase on plastic bottles would be only 16 per cent, so two-thirds of shoppers would move from hugely recyclable aluminium cans to plastic bottles. Rather than helping to deal with the problem of there being too much plastic on the market, the DRS might have a negative effect.

The German drinks industry is recovering from a poorly implemented DRS in which use of multipacks of cans was almost wiped out. That could be addressed by looking at different ways to apply the 20p deposit. What research have you done on the potential shift away from multipacks of cans to larger bottles, and the potential health implications of people upsizing?

**Roseanna Cunningham:** There are a couple of different aspects to that. First, we have had no solid evidence that that is what happens. It is also partly about going back to some of the cultural and marketing issues around the presentation of products. I accept what you said about the German system, although I understand that there were very particular issues there.

**Don McGillivray:** Yes.

**Roseanna Cunningham:** One of the officials might be able to go into what happened in Germany. Various DRS systems have had challenges. Estonia had a bit of an issue with fraud that had to be dealt with very quickly and which had not been foreseen.

I am less convinced by the argument that somehow if I, as a single person, am currently buying an eight pack of 150ml tins of tonic—I do not want anybody to make assumptions about what I might be mixing the tonic with—I am suddenly going instead to buy huge bottles of tonic. I am sorry, but no. There are reasons why people buy things in certain quantities, and those reasons will not disappear because there is a deposit return system.

**Mark Ruskell:** I am trying to get my head round why you would not put, say, a 40p deposit on a two-litre plastic bottle. Surely that is quite easy for consumers to understand. It is just two 20p coins.

**Roseanna Cunningham:** First, the general comments about the flat fee pertain regardless. Secondly, we do not want a reverse incentive through which small containers are the ones that are easily chucked away and not really thought about. There is an issue with that. This is about managing the system and not introducing extra

factors that might negatively impact on behaviours.

**Mark Ruskell:** I was not suggesting that the rate for cans be reduced to 10p, but that the deposit for bigger items could be increased by 20p. I do not see how that would create an incentive to chuck away cans.

**Roseanna Cunningham:** It devalues the can material, I think.

**Mark Ruskell:** It is still 20p.

**Roseanna Cunningham:** You are basically saying that that 20p is only half the deposit of the bigger bottles. You are telling people—

**Mark Ruskell:** It is still 20p, rather than 40p.

**Roseanna Cunningham:** Yes, which is half of 40p. You are telling people that the bigger bottle is a more significant or important thing to worry about than the smaller one, and that is not necessarily the case.

**Rachael Hamilton:** Do you believe there might be potential for social or health implications? Finlay Carson talked about the 24 pack having a £4.80 deposit flat rate on it and a larger plastic bottle having 80p on it. He expressed that in percentages. Do you believe there could be implications, particularly for minimum unit pricing?

**Roseanna Cunningham:** On that basis, one would have to be arguing that a 1 litre bottle of vodka was more of a problem than 28 cans of vodka. People buy things as they do for their own convenience. That is how they will continue to consume.

11:30

I do not see how that will change significantly. We are not talking about a £4.80 cost every time people buy their multipack. We need to remember that the deposit is a one-off cost at the start, and that is it. After that, it is subsumed into continual purchase. If people are in the habit of buying in a particular way, the deposit cost is there at the start of the process and is then just rolled in as we go along. It is not the case that they will pay the deposit every time they buy a package of eight cans or whatever.

**Finlay Carson:** I need to put on record that there is research out there that suggests that there would be a change. Evidence suggests that 42 per cent of people would choose another drink if they went from having to pay 20p for a small bottle of water to suddenly having to pay 40p. There is evidence that people would change, which could have health implications. That needs to be looked at closely.

Finally, on the deposit, what is the current situation in discussions with the UK Government about whether VAT will be included in the deposit? Do you have a timescale for when you think that question will be answered?

**Roseanna Cunningham:** I have written to the relevant UK secretary of state seeking agreement on that. It is not just about VAT; another UK implication is the exemption of DRS packaging from existing and future UK-wide packaging producer-responsibility arrangements. Minds are focused elsewhere at the moment, so I have not really had much of a response—although I say in fairness that I would not have anticipated seeing much back at this stage.

I understand that the UK Government will consult in the early part of next year on a DRS system, so it will be starting to have such thoughts and conversations, too. Although its intentions are back along the line from ours, it will be engaged in the same space. I have raised both those issues and anticipate continued engagement, although that has been somewhat stalled since June for reasons that are, unfortunately, outwith my control.

**The Convener:** Stewart Stevenson will ask about operational impacts.

**Stewart Stevenson:** In evidence we have heard about effects on producers, wholesalers and retailers—all the way up and down the chain—and about complexity because of different labelling north and south of the border. Those are only a couple of the issues.

The fundamental question is this: why have we designed a scheme that requires the deposit to travel all the way from the producer to the consumer? An alternative model could be that when the person purchases something they must purchase a token that carries the value, so nobody in the chain has to put any money out whatsoever. When we purchased a can, we in Scotland would be purchasing two things: the can itself with the Great Britain labelling, barcode and everything, and a 20p token that would be redeemable only when we bring back the can. Furthermore, the retailer would not need to pay for the tokens, but would just act, as the lottery terminal does, as a collector of the money that the customer is putting in. That would eliminate a lot of the complication.

I take you back, because of my age, to a world in which, before VAT, that is how purchase tax worked. Money was collected only when the product reached the customer and we did not have it anywhere in the system. To what extent has the Government looked at that suggestion?

**Roseanna Cunningham:** Had we come across such a system anywhere in the world, we might have considered it, but we did not. That is

straightforward. I am conscious of no DRS anywhere that operates on that basis.

**Stewart Stevenson:** I am not wholly opposed to innovation in the appropriate sense. I am looking quite seriously at a long list of difficulties that go all the way back to the producer. I am thinking particularly of small producers. Big producers can probably deal with this, but small producers might not be able to. It even affects the person who buys things. Finlay Carson's constituents may cross the border to do some of their shopping. If the label of something that they buy in Carlisle is the same as the label of something that they buy in Dumfries, it does not matter which one they put back as long as it is associated with the token that they return. It makes it simpler for the customers. Furthermore, there is potentially a nudge benefit because, if people are carrying these tokens around in their purse, it is a constant reminder every time they open their purse that they are carrying money that they could get something back on.

I have this little obsession that we have failed to apply Occam's razor to the design and come up with a much simpler system. Online retailers would just need to put a token in the packet; they would not need to do anything else.

**Roseanna Cunningham:** The system that we have come up with is, by and large, the one that is in use in a huge number of countries in the world. On the cross-border issues that you are raising, virtually every country in the world that has a DRS has borders. I think that you were concerned about producers. Everywhere has the same issues; Scotland is not unique. Therefore, when we looked at a scheme, we looked across the existing schemes and considered which, from our perspective, was best for Scotland.

There are other ways that we could do it. The Government could run the scheme, as happens in some countries, but that would take us much longer to get into place and would have its own concerns. It could be done in a way that is not industry led, but we have come up with the scheme that we have because we can learn from the experience of other countries and it is applicable to Scotland.

Although at this point it is an interesting contribution to say that there is a completely different way to do it, the fact that, to my knowledge, no other deposit return scheme has done it in the way that you suggest means that we would be very much on our own in trying to deal with the issues that would inevitably arise with it. There is no scheme that is risk free in that sense. If we had introduced that proposal, you would all have been sitting here saying, "What on earth are you doing thinking up a brand new scheme when you have all these other schemes out there that

you could have learned from and copied?" I think that we are where we are now.

**Stewart Stevenson:** I would make the observation that it also solves the VAT problem because there is no VAT on the token, but that is another issue.

**Roseanna Cunningham:** Yes, if the Treasury agrees that there is no VAT on the token. I am just saying that there would be different issues with a different kind of scheme.

**Stewart Stevenson:** Tokens are used in other industries and they are VAT free, but that is neither here nor there.

The bottom line is that the producers are almost threatening to withdraw products from the markets because they will need different labelling or different barcodes. How do you think that smaller producers in particular will be likely to respond to the need to have differently labelled products? We had a perhaps slightly exaggerated bit of evidence about the shortage of designers to redo labels, for example.

**Roseanna Cunningham:** To a certain extent, I can answer that briefly by saying that I deliberately have not picked up on the occasional comments about labelling because nothing in the regulations mandates labelling. Labelling is an issue that the scheme administrator may wish to consider and decide what to do about, if anything. The regulations that are before Parliament do not mandate any kind of labelling. That is a matter for the scheme administrator to consider. One can argue that there might be different ways of handling labelling if that is the way the administrator wants to go.

**Stewart Stevenson:** Let me put it to you this way. How does the reverse vending machine distinguish between a can of fizzy drink that is sold in Carlisle and one that is sold in Dumfries if the labels are not different?

**Roseanna Cunningham:** That is for the scheme administrator to decide. The point that I am making here is that we have two things going on. We have the regulations, which are before Parliament at the moment, and we have what the scheme administrator may develop as a result of being set up to handle some of the issues that are considered. It is a conversation that will continue and the scheme administrator will have to consider whether it is significant enough to be a problem that it needs to deal with.

**Stewart Stevenson:** Okay—I am not terribly convinced by that, I have to say.

In general terms, the big point that I have heard about wholesalers' goods distribution here is that we have a very integrated distribution system in GB—it extends off into Ireland as well—which is

rather different from the system in other countries. It has been suggested that it will be much more difficult in that environment to implement this scheme. Whether it is the Government or the administrator that mandates it, there seems to be little doubt that different labelling will be part of the scheme.

**Roseanna Cunningham:** You are using the simple word "labelling", but that includes a variety of different things. It may simply be a different barcode on what is in effect the same label—I do not know. It will be for the scheme administrator to think about the best way to proceed on this and to consider, if it does want to go down the road of labelling, how that will be managed. This is about the difference between the Government regulating for every single line of the scheme, which is what we are trying not to do, and ensuring that, if it is industry led, the industry will make some of these decisions on the basis of what it considers to be the most likely requirements.

**The Convener:** There is a two-step process. The Government is looking at the regulations but, once those regulations are through, the scheme administrator will continue gathering evidence from industry—

**Roseanna Cunningham:** Yes.

**The Convener:** —and industry, alongside the scheme administrator, will decide what works. Is that what you are saying?

**Roseanna Cunningham:** In effect, the scheme administrator will be the industry. An industry-led scheme will be set up. That is what the Norwegian scheme is. It is the industry that runs the scheme and needs to make some of the decisions, so flexibility needs to be built in for it to consider different potential ways of managing things. Otherwise we would be in the business of trying to regulate every single possibility that might arise.

**Claudia Beamish:** I am listening carefully to what you are saying, cabinet secretary. As a South Scotland MSP, I have had representation from consumers who are concerned about the cross-border issue, which you are not talking about at the moment. Also, we had evidence last week about the cost to industry of things such as separate barcodes and artwork. I appreciate that you are saying that the Government will not be tackling every single line, but I think that clarity on this would build confidence among producers and the range of industries involved. I do not know that it is necessarily right to leave that to the scheme administrator. That is just a view.

11:45

**Roseanna Cunningham:** Can we not think about the scheme administrator as if it was something completely separate from industry?

**Claudia Beamish:** No, but it is separate from the Government, though, surely.

**Roseanna Cunningham:** It is separate from the Government—

**Claudia Beamish:** Yes, exactly. That is the point that I am making.

**Roseanna Cunningham:** The scheme administrator will be industry led. The issues that the industry is raising at the moment will be issues that it will undoubtedly want to have conversations about in the process of setting up the scheme and how it is administered, because it will be industry led. The concerns and the debate of the industry will be part of that conversation.

The point that I am making is that the way we are doing this—using the Norwegian example as the base model, as I have said umpteen times—is to regulate to introduce the scheme but not to do so in such a detailed and definitive way that we have bound everybody. Through the scheme administration set-up, the industry will be able to flexibly look at potential solutions for issues that arise. I am not in the business of dictating what those solutions might be; otherwise we would be in this process for years.

**Finlay Carson:** With all due respect, it appears that you are dipping in and out of what responsibility the Government may or may not have. On one hand, you are happy that the Government retains control over a variable deposit when industry is calling out for a variable deposit to be part of the scheme. On the other hand, when we raise difficulties—for example, fraud or the massive increase in cost for the wholesale and distribution network—you say that it is down to the scheme administrator. You have also brought in timescales that most suggest are completely unrealistic. That is your obligation to industry, but when it comes to all the difficult things, your answer is that it will be up to the scheme administrator. Surely, with some of the fundamentals of the operational impacts, Government needs to take a role, rather than just saying, “Well, that will be up to the administrator.”?

**Roseanna Cunningham:** We have been working with the industry for quite some considerable time. We are not “dipping in and out”. The regulations are what is before Parliament, and I am making the point that they are to set up the scheme, not to define the scheme in every single detail, because the point about—

**Finlay Carson:** The regulations define what materials are included and what the level of deposit is, which are fundamental things.

**Roseanna Cunningham:** What we are putting in the regulations is the materials, the level of deposit and the fact that the scheme will be industry led. The rest of it is for the industry, as happens in Norway. I keep coming back to the point that we are not reinventing the wheel. We are using a respected and viable set-up that works extremely well.

**Finlay Carson:** Norway has a variable deposit and does not have glass in the scheme.

**Roseanna Cunningham:** We are saying to the industry, “There you go—now you have to make some of the detailed decisions.” I think that, if I had tried to start putting detail into the regulation, there would have been far more of an uproar about that than allowing industry itself to work through some of this and to consider best solutions.

**The Convener:** I think that we have had quite a few questions on that. I know that Rachael Hamilton wants to come in on that. Be very brief.

**Rachael Hamilton:** Would it be possible for the Scottish Government to be flexible about the timescale? We are going into the timeframe later, but if there are labelling issues that the scheme administrator has identified with industry—and you say that they will talk—is there flexibility about that? I will give you one example from the evidence that we received last week from Coca-Cola. It has 700 different labels that it has to consider.

**Roseanna Cunningham:** We have caveated the timescale as far as the regulations are concerned and, obviously, the regulations will have to come back for a final decision. We are currently in discussion about that. It is an issue. I am aware that it is a matter of some concern and we will continue to have a conversation about that. I have indicated that I would like to see the scheme up and running by spring 2021, but I am conscious that there is an active conversation around that and the regulations are caveated on timescale.

**The Convener:** We have some themes that we will be dealing with directly and some members have already said that they want to ask questions about that. Claudia Beamish has a question to round off this issue on operational impacts around reprocessing.

**Claudia Beamish:** In relation to the circular economy, it is very important that there are opportunities for reprocessing—as I hope you will agree, without wanting to put words in your mouth. Has the Scottish Government looked at the

possibilities? I appreciate that we have a circular economy bill coming forward next year and that that might be the place for it, but it seems that there are clear possibilities for industry to remanufacture, although I have not had capacity to research that.

**Roseanna Cunningham:** From a circular economy perspective, this would be an important outcome for Scotland. We are working to attract extra plastics reprocessing capacity for Scotland, because I think that that will be required. That would be taking advantage of this stream of material and being able to do so in Scotland.

Zero Waste Scotland has a dedicated workstream that is focused on domestic reprocessing, so it is actively being looked at. That includes the issue of attracting investment into plastics reprocessing, which has to be considered. Obviously, the large increase in the amount of aggregated and clean PET glass and so on means that the DRS offers a significant attraction to reprocessors, particularly plastics reprocessors. From the circular economy perspective, that has a significant benefit to Scotland. Let us not forget that, within three years, the intention is to have that return up to about 95 per cent. We hope that the additional availability of materials makes Scotland much more attractive, particularly for plastics reprocessing. It is a live discussion and I consider it to be one of the things that I definitely want to see as an outcome of the introduction of this scheme.

**The Convener:** We will move on to questions that I have on how DRS will dovetail into wider waste policy. First off, at what stage of development is the proposal for the extended producer responsibility? How will DRS interact with—let us use the acronym—EPR?

**Roseanna Cunningham:** I have already indicated that I have written to UK Government counterparts. The producer packaging responsibility is devolved, but all of us have agreed that introducing EPR is best done at the UK level. We do not believe that it will produce the kind of outcome that DRS will produce, which is why we have gone down the DRS road.

At present, we are not 100 per cent certain exactly what will be the outcome of the extended producer responsibility, other than that that, too, will have a cost. I think that I am right in saying that we estimate that producers will end up paying 10 times more under EPR than they currently are, so I guess that has to be considered alongside the introduction of DRS. At the moment, I do not think that that has been finalised.

**Don McGillivray (Scottish Government):** The enabling powers were in the Environment Bill, which fell at Westminster.

**Roseanna Cunningham:** The figure is there or thereabouts.

EPR will offset one of the other issues that I daresay people will want to raise, which is what will happen to local authority collections. The materials that continue to go into local authority collections, for example, will attract a much higher cost to the producer than they currently do, so that will be a different pressure. That is stuff that would not necessarily be included in DRS—jam jars and things like that.

We think that DRS will produce a faster return in recycling. It will also produce faster change in behaviour, which is the other big thing that EPR does not really do. It does not impact on how the consumer sees things, whereas DRS does. DRS is about actively shifting consumer behaviour and changing how people view things. We hope that that will have a knock-on effect on other materials. That gives you a sense of how EPR and DRS will fit together.

EPR will happen, and I need to have a conversation with the UK Government so that it does not get added on to DRS.

**The Convener:** One issue that some of stakeholders brought up was the potential for double charging. If EPR does not address what was happening with DRS, there might be issues of double charging.

**Roseanna Cunningham:** I raised that directly with the UK Government but, as I indicated before, everything has kind of stopped at the moment.

**The Convener:** That leads on to where the UK is with its DRS considerations. One thing that came up a lot was that the UK is not anywhere near as advanced in progressing its DRS. We looked into whether there was anything stopping the industry from extending DRS to the rest of the UK. There was concern about the cross-border issues that would need to be considered if Scotland has DRS but the UK does not. There is nothing stopping the industry from pushing ahead throughout the whole of the UK without waiting for the UK to put forward its regulations. Have you considered that?

**Roseanna Cunningham:** There might be. I cannot say without an intimate knowledge of the way that the Westminster regulatory system works in England and Wales. I cannot really answer that question other than theoretically. In theory, industry in the rest of the UK could do that, but in practice, it could run into issues that make it not easy for it to do so. I am hoping that the introduction of the scheme here will provide a model for the rest of the UK to follow, and that industry, rather than introducing an ad hoc scheme, will put pressure on Westminster to roll it out across the rest of the UK.

As far as I understand it at the moment, the UK is committed to bringing in DRS. Until earlier this year, I had been having meetings with Thérèse Coffey, who was the relevant minister at the time. Indeed, I was due to have a meeting with Thérèse Coffey almost on the day that she became Secretary of State for Work and Pensions, but the meeting was cancelled, sadly.

I am not entirely certain where that commitment now rests, but it is still a commitment. The enabling power was in the Environment Bill. We were lucky, because we had the enabling power existing in the Climate Change (Scotland) Act 2009, so we have been able to progress DRS. The UK Government put the enabling power in the Environment Bill, but that has now fallen because of the general election. I have to presume that having introduced the enabling power, it is simply going to bring it back again. The UK Government is at that stage, so I cannot anticipate when, in what form and how the commitment will work its way through. That enabling power would then generate the equivalent of the regulatory instrument that you see before you.

**The Convener:** What do you say to those people—including some members here—who have said that Scotland should not be implementing DRS until the rest of the UK does?

12:00

**Roseanna Cunningham:** I would ask them what is the point of devolution. We are introducing DRS under a devolved power. What would be the point of devolution if every time that we were going to do something, we said, “We are not going to do it until the rest of the UK does it.”?

We have been having an active conversation about DRS for a number of years now. The commitment to do it must have been foreseen because, prior to the appearance of DRS in the 2017-18 programme for government, we had been having an active conversation with industry and Zero Waste Scotland.

The subsequent consultations and discussions are not brand new consultations and discussions. They are building on what was already there. To be perfectly honest, it did not make any sense for us to continue to delay making a decision that we considered was the right decision. We had it in the programme for government in September 2017. We then saw “Blue Planet II”, and our decision to do what we were doing was borne out by what we saw in that. A big part of what DRS will deal with is plastic, and plastic waste was what people were up in arms about.

If you were going to introduce DRS at any point, you would do it when you had that consumer and public demand giving you a fair wind on it. We

were lucky in the timing, because we had already made the decision and then we saw the up-flow. I need to come back to the fact that DRS is enormously popular with the public. We cannot lose sight of the fact that the vast majority of the public are keen on it.

**The Convener:** Looking at it the other way round, will the regulations going through in Scotland make it easier for the rest of the UK to adapt and bring forward the proposals for its model?

**Roseanna Cunningham:** I am hoping that it generates demand south of the border. When the UK Government comes to look at a scheme, it will be able to see that there is a ready-made one within the UK already.

**The Convener:** We will now move on to questions around the scheme administrator and scheme governance.

**Angus MacDonald:** What criteria will Scottish ministers take into account when asked to approve a scheme administrator, including the representation of different interests in its governance?

**Roseanna Cunningham:** We anticipate that more than one proposal will come forward. We would be looking for an applicant that can operate for at least five years as a scheme administrator. We are not looking for folk who flit in and flit out. We are looking for a business plan that works over a five-year period minimum and an operational plan that demonstrates how it is planning to fulfil its own producer members’ obligations.

We intend to work closely with experts, including the Scottish Environment Protection Agency, to assess any applications for approval. We will be required to approve any application that meets the necessary criteria. We are not pushing into the line-by-line detail but, when it comes to approving a scheme administrator, we need to see the ability to operate effectively over a minimum of a five-year period.

**Angus MacDonald:** I take on board that you are not pushing into the line-by-line detail, but there is clearly a strong argument for a scheme administrator to adhere to best practice on procurement, pay and so on. Should the scheme administrator be required to pay a living wage, publish carbon assessments each year by material type and give a preference to social enterprises when procuring contracts, including collection?

**Roseanna Cunningham:** The most important consideration is its ability to run the scheme in the first place. We would talk to any potential scheme administrators about some of the desirable outcomes. Like any business, the scheme administrator will be subject to certain other

requirements, which might, by then, include things such as carbon assessments.

The scheme administrator will not be exempted from all of the other regulations. You have heard the conversation that we have had here, and the potential for some solutions to issues that the scheme administrator will have to consider, which include extreme and remote rurality. I imagine that the scheme administrator will be as keen as the rest of us to come up with solutions in these areas.

**Angus MacDonald:** The regulations leave it open for there to be no scheme administrator or for there to be more than one, and there has been talk in some of the evidence of having maybe two or three. Would either of these scenarios be practical?

**Roseanna Cunningham:** I think that having a single scheme administrator is probably the most practical approach. I think that, in Norway, there is a second one that operates on a much smaller basis. I have a feeling there was another one that was—

**Don McGillivray:** I think that was the administrator of EPR rather than DRS.

**Roseanna Cunningham:** Yes. Internationally, the experience is such that I believe that a single scheme administrator is the most sensible way to go.

It may be that there are some very small producers operating in a very confined geographical space that may not want to participate in a national scheme, and the regulations allow for that. In the main, we anticipate that there will be a single scheme administrator with perhaps some very small, very geographically oriented opt-outs from that central scheme.

**Angus MacDonald:** For the record, is it possible to legislate for a single scheme administrator, or would that be contrary to competition or procurement laws?

**Roseanna Cunningham:** As we rehearsed earlier, the enabling legislation provides for us to designate a scheme administrator and it provides ministers with a power of direction over the scheme administrator. We intend that it be an industry-led scheme in line with the principles of producer responsibility, so we put the producers in the driving seat on this one.

If you start to increase the degree of Government control, it makes it more likely that the scheme administrator would be classified as a public sector entity. That creates issues of its own because, from our perspective, DRS is viewed as a form of extended producer responsibility. We believe that it makes sense for producers to basically take ownership of the scheme and to

assume responsibility for it, with appropriate regulation by SEPA. We do not see any reason why a scheme in Scotland should operate less effectively than schemes in plenty of other countries do. Again, this is a model that is tried and tested in other countries and looks to be the best way forward.

**Mark Ruskell:** Why are there no sanctions or targets for the first nine months?

**Roseanna Cunningham:** Because we need to allow the scheme to get up and running. We need there to be a period of time when it is setting up and starting to work. We need allow time for that. We have allowed a three-year phasing in. The targets are increased year by year over three years to allow quirks to be taken out of the system and to ensure that it is operating as effectively as it can. People will not be subject to the full range of sanctions and targets on day 1. We will introduce those over a period of time, with increases kicking in after nine months, a year, two years and three years. By the third year, we expect to be reaching the targets.

**Angus MacDonald:** You mentioned earlier that the Scottish national investment bank would be contributing to the costs of RVMs, so how will the scheme—

**Roseanna Cunningham:** I said that we will be exploring that. I would hate to commit it in advance to something that it is not necessarily committed to. We see there being a role for the Scottish national investment bank, and we are engaging with it in order to establish whether it can play a role.

**Angus MacDonald:** Are you hoping that it will play a role with regard to the start-up costs?

**Roseanna Cunningham:** I would not be engaging in those conversations if I did not hope that something productive would come from that.

**The Convener:** We will now move on to talk about enforcement and prevention.

**Finlay Carson:** We have heard some evidence that suggests that there are concerns from the industry about the amount of responsibility that will be placed on it for enforcement and fraud prevention. We heard that there is a serious concern that there could be fraud on an industrial scale, with consignments of multipack cans that are suddenly worth £15,000 more than they were before the scheme started up being transported from south of the border into Scotland. What proposals do you have to ensure that the draft regulations will support the industry to ensure that fraud prevention and enforcement are not too big a burden?

**Roseanna Cunningham:** I saw that evidence, and I have to say my reaction was some

incredulity. Would these lorry loads be driven up from England alongside all the other lorry loads of alcohol that are being driven up in order to evade the minimum unit pricing, which has actually not happened? I do not believe that this is a realistic scenario at all. There is no evidence of a significant increase in cross-border grocery shopping to avoid minimum unit pricing. I do not say that there might not be the odd person who nips down to Tesco in Carlisle and comes back up. There might be, but the cost that is involved in doing so outweighs the benefit of actually doing it, so I just cannot see that as a realistic issue. The nature of Scotland's border means that only a relatively small part of the population lives close enough to make cross-border grocery shopping financially viable.

**Finlay Carson:** We are not talking about consumers doing this; we are talking about organised crime.

**Roseanna Cunningham:** I saw the evidence and I—

**Finlay Carson:** It happens at the moment, even without the additional 20p per can.

**Roseanna Cunningham:** There will be an element of fraud in any scheme or venture, whatever it is. In virtually every DRS that we know of, fraud comes to about 1 per cent or 2 per cent. The scheme administrators will need to think about particular ways of reducing that, but we do not see the kind of scenario that was put forward in last week's evidence session with stakeholders as realistic. It is not. Are we seriously talking about lorry loads of empty plastic bottles at 20p per bottle? The cost of doing that would somewhat—

**Finlay Carson:** There are genuine concerns. We are not just talking about empties; we are talking about the product itself.

**Roseanna Cunningham:** For 20p?

**Finlay Carson:** It is potentially £15,000 for a lorry load. I do not think that that is insignificant.

I want to move on from that point. The main thrust of my question is: what support will you give the scheme administrator and what key challenges do you think that there will be to enforce the scheme in a broader sense? Are you likely to increase resources for SEPA to ensure that the enforcement measures under the regulation are fulfilled?

12:15

**Roseanna Cunningham:** As I indicated, fraud prevention will be part of the scheme for the scheme administrator to consider. In virtually every other scheme, about 1 per cent or 2 per cent of what happens can be identified as fraud. I

cannot imagine that Scotland will vary from that. We are looking at approximately 40 deposit return schemes operating internationally. Fraud prevention measures are in place in those schemes in a lot of jurisdictions. There will be some real opportunities for engagement internationally with regard to solutions. I think that I mentioned earlier that Estonia had a particular problem because of the way in which its scheme was originally designed, so it had to go back and fix something.

There is a possibility that there might be some issues that would need to be subsequently legislated on, but they would be considered if a case was made. I cannot envisage what that case might be. Obviously people will want to get it right, because fraud is lost business to the scheme, even if it is only at 1 per cent or 2 per cent, this is a big scheme and we will want to minimise that fraud as much as possible.

Every DRS in the world has borders that must be dealt with, so examples of potential solutions are available virtually everywhere in the world. I mentioned South Australia in a different context earlier. That is one state in Australia and the states in Australia have different schemes. The existence of a scheme within a larger entity is also something that you can see examples of internationally, so we have plenty of opportunity to look at that.

SEPA will need to think about the way that it regulates, and we are actively involved in conversations with it in that regard. It sits on the DRS programme board, so it is already actively engaged. It has been involved in the development of the proposals all along, and it is planning already in preparation for the scheme implementation. Any resource requirements that it identifies will be part of the discussions that we have with it every time that there is a spending review.

**Claudia Beamish:** I appreciate that we are all short of time, but I wanted to get something on the record. Perhaps you or your officials could write to us about this. As an MSP for South Scotland, consumers who go to Carlisle for leisure or health or whatever and shop have expressed concerns to me about what the arrangements would be for returning bottles, as a deposit would not be returned from businesses there. It would be helpful if you could say something about that.

**Roseanna Cunningham:** To go back to what I said earlier, it is the container that it is important. If you buy a bottle of coke in Carlisle, it is returnable in Scotland.

**Don McGillivray:** It depends whether it is a scheme article.

**Roseanna Cunningham:** Again, the scheme administrator will have to consider that and make a decision about the volume of such returns as opposed to starting from a position of what it would need to do to stop it.

**Claudia Beamish:** I do not want that to get in the way of the positive way forward.

**Roseanna Cunningham:** As I said, every scheme has borders. When I visited Norway last year, we talked about the border between Norway and Sweden. Every scheme that exists has borders where either there is another scheme that is different or there is no scheme. Anything that happens in Scotland will have been experienced by other jurisdictions.

**The Convener:** We have only 10 minutes left. We will move on to local authority impacts. I ask members to keep their questions brief.

**Rachael Hamilton:** Has the Scottish Government looked at the implications of DRS on local authorities, particularly the kerbside collection and recycling schemes?

**Roseanna Cunningham:** We have had that conversation. I have been happy with the engagement with local authorities on this. Zero Waste Scotland is working directly with local authorities to explore the impacts and opportunities for collection services and infrastructure as a result of DRS. We will be reviewing the Scottish household recycling charter to take account of it. Some of the comments that I made earlier relate to this, because the extended producer responsibility attached to items that are not part of DRS will become a far bigger cost to producers, so some of that will be factored in. That will take up some of the local authority slack, but, in the main, local authorities appear to have engaged well with this. We understand the implications for local government and have extended an invitation to the Convention of Scottish Local Authorities to be on the implementation advisory board, so we are engaged with it.

**Rachael Hamilton:** If high-value recyclables, such as glass, are part of DRS, will that have an implication for local authorities?

**Roseanna Cunningham:** They will still be collecting what does not get taken back in DRS. We know that we will not get everything back with DRS, so local authorities will still be collecting. They will still be collecting things that are outwith the scheme. I referred to jam jars, but household products come in a lot of different formats. Authorities are collecting all of that. That will be attracting a much higher cost to the producer because of the extended producer responsibility requirements that we expect to come in. As far as I understand it, local authorities have been

engaging positively and are seeing some of the advantages for themselves. The scheme will potentially reduce a lot of their landfill, for example.

**Rachael Hamilton:** I understand that there is a cost implication over 25 years, and there is a benefit if you have less landfill. However, will the lesser-value recyclables ultimately end up in landfill?

**Roseanna Cunningham:** The lesser-value recyclables will have had a very high, increased, cost imposed on them through the extended producer responsibility, so there will be a change in how they are viewed. There will be a lot of change and it will not all be about DRS. That is important to understand. This is a very active conversation. For example, Wales, which does the best of all UK Governments with local authority recycling, is still looking to introduce a DRS because of the benefits of it.

I go back to one of the reasons why we need to do this. We need to do this because the current way that we do recycling simply does not capture anything like what we need to capture. We need to step in and make the kind of significant change that DRS will bring. We have plateaued on that issue in the past few years. We need to step in and make a big difference there. There will be an indirect benefit for local authorities because with a DRS system that works well, they will be doing an awful lot less of litter collection and disposal than they are doing currently.

**Don McGillivray:** I do not understand the logic of having material that is collected separately for recycling going to landfill. If you recycle it, you do not pay the £80 landfill tax that you pay if you send material to landfill. I am struggling to understand the logic of material that is collected separately for recycling being sent to landfill.

**Rachael Hamilton:** I have one last question on this. There have been concerns that the baseline recycling rates used to justify DRS are five years out of date and come from a Zero Waste Scotland report that states:

“It is not a complete analysis of local authority or national recycling performance.”

If you could answer that, that would be great, but if you cannot, perhaps you could write to us about it.

**Roseanna Cunningham:** Give me a few moments, because I think that there is a line on that. We have drawn on more than one source of information to reach conclusions about recycling rates. Local authority waste dataflow data is part of that, but we have also looked at household waste compositional analysis and SEPA waste data. We have tried to fill that in by using a range

of different waste data figures. It may be that we can write to the committee with an expansion of what those showed and how we came to the baseline figures.

**The Convener:** We will look at timescales and timeframes now.

**Angus MacDonald:** You have already mentioned the caveated proposed implementation date of 1 April 2021. Industry has said to us that if there is to be further slippage, it would prefer to avoid summer 2021 and Christmas 2021. How important is swift implementation in light of the climate emergency and so on?

**Roseanna Cunningham:** As I indicated, the regulations caveat the timescale because that is an active conversation. I set out that I hoped that we would be able to have this up and running in spring 2021, but if there is to be a conversation about that, it has to be a realistic one and not just an attempt to push the timescale so far out as to not be effective. At this point it is still a discussion, but we are in a space where we want to press ahead with this. We want to make sure that we get this up and running as soon as is practicably possible and we are continuing to engage with industry on that.

**Mark Ruskell:** What are the key things that need to happen on the ground between now and April 2021? An example of that is setting up a counting centre. Does that need to be built? Does it need planning permission? Who will do that? That is one thing, but what are the other key things that need to be on the ground?

**Roseanna Cunningham:** There are a lot of things. There will be all the back-end infrastructure, which is what you are talking about. A scheme administrator could have a plaque on the wall but not have any actual infrastructure, so that still has to happen. There has to be installation of reverse vending machines. The rating concession kicks in at the change of the financial year in 2020, so people can think from then on about beginning to do that. There will need to be adjustments to production, warehousing and various distribution arrangements for producers and retailers. We are looking at all those issues and the practicalities around them. We recognise that there are requirements for DRS. As I indicated to Angus MacDonald, there are active conversations about the timescales for that.

**Mark Ruskell:** If a counting centre needs to be set up, that new facility could have to go through a planning process. How confident are you that that can be done within that timescale?

**Roseanna Cunningham:** That is what we are looking at. I go back to the fact that this is something that is hugely popular right across the

board in Scotland. I hope, and confidently expect, that everybody who is involved in the various processes that will be required to bring all this on stream will want to do so in as encouraging a manner as possible.

**Mark Ruskell:** When would be the last point at which planning permission for a counting centre could be applied for, or such a centre could be constructed? Are we looking at December 2020 or November 2020?

**Roseanna Cunningham:** I am sorry but I cannot get into a discussion on a month-by-month basis. I would need to work back the way. There are things that can begin to happen now, things that will not be able to happen until the regulations are passed and things that the scheme administrator will wish to discuss actively. A number of conversations still need to be had, which is why the regulations caveat the timescale.

12:30

**Mark Ruskell:** Can the committee get clarity on that, and if so, when? Obviously after the regulations are passed—

**Roseanna Cunningham:** I will have the conversations and when we come to any decision one way or the other, the committee will be advised.

**Finlay Carson:** I agree with the cabinet secretary that DRS is hugely popular. There is cross-party support for the introduction of DRS and the principles behind it, but there are huge concerns in industry, and timescales is one of them. We will have to set up a new system administrator and, because the scheme is for Scotland only, companies will have to look at separate labelling, identification and information technology systems. You mentioned the reverse vending machines that will have to be installed. We have to develop frameworks for enforcement and monitoring mechanisms. How much additional cost is involved in introducing a Scottish scheme on its own? Given that we all welcome the fact that we are moving quickly in light of climate change, have you done any work on looking at the cost of introducing DRS in the context that it currently sits outwith a UK framework to introduce DRS? You look quizzical. I may not be explaining it very well.

**Roseanna Cunningham:** I do, because I am not clear what extra cost there would be.

**Finlay Carson:** I suppose that the extra costs that I am thinking about are in labelling a Scotland-specific bottle for the scheme; wholesalers potentially not being able to distribute from depots in Scotland unless they adopt lots of the IT labelling identification systems; and wholesalers having to hold more stock in Scotland and so on.

There must be an additional cost when we bring in a scheme earlier than it will be brought in for the whole of the UK. Have you done any estimates of the additional cost of bringing in the scheme in comparison to—

**Roseanna Cunningham:** I do not think that we have done that, because we want to make sure that we get the scheme in. All those costs would still be there if you brought in a UK-wide scheme; a UK-wide scheme would not come cost free in that sense either. From the perspective of what we are doing here and comparing it to what there might be, you may as well say that a Europe-wide scheme would be the cheapest of all.

**Finlay Carson:** We have identified additional costs. There is a complicated distribution network within the UK and there will be additional costs to Scottish businesses because we are doing it on our own. Do not take that as a suggestion that I do not want the scheme to be pushed forward quickly, because everybody recognises that we have climate change. I hope that the cabinet secretary is doing everything that she can to encourage the Westminster Government to pull forward.

**Roseanna Cunningham:** Believe me, I am.

**Finlay Carson:** I have had a letter to suggest that it is looking to accelerate the introduction of DRS, and I absolutely welcome that, but I am very concerned about the additional burden placed on Scottish businesses in bringing in a system earlier than a UK scheme.

**Roseanna Cunningham:** That is one of the reasons why we want the scheme administrator to make these decisions—it will choose the most effective, most efficient and least costly one that it can identify itself. We anticipate that that is what it will want to do early doors. At the end of the day, we have a system of devolution. This is one of the devolved powers and we are charged in broader terms to get to our net zero target five years earlier than the rest of the UK. The timescales are more pressing for us, and not only on this issue. There are a range of policy issues where timescales will be more pressing for us.

In a sense, Finlay Carson has identified a challenge, but it is a challenge that will not be confined just to this. It is a challenge that will have to be considered right across the board if we are going to do what the Parliament has voted for us to do and what the UK Committee on Climate Change has asked us to do. I do not for one single minute want to pretend that what we do in this area or in any other area will be easy and without significant challenges for everybody. This may, in a sense, be a prime example of that.

**The Convener:** Thank you for answering our questions today, cabinet secretary. I thank you

and your officials for the time that you have spent with us. That concludes the committee's business in public today. At its next meeting on 26 November, the committee will hear evidence on the Scottish Government budget from the Cabinet Secretary for the Environment, Climate Change and Land Reform and from the Minister for Public Finance and Digital Economy.

12:35

*Meeting continued in private until 12:56.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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