Climate Action Committee
Thursday 19 November 2026
10th Meeting, 2026 (Session 7)

Note by the Clerk: The Deposit and Return Scheme for Scotland Amendment Regulations 2026, The Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 and The Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026

Overview

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Climate Action and Rural Affairs and officials on the following draft Scottish Statutory Instruments (SSIs), before debating motions in the name of the Cabinet Secretary inviting the Committee to recommend approval of the instruments.

2. More information about each instrument is summarised in the Annexes to this paper:

   - Annexe A: Deposit and Return Scheme for Scotland Amendment Regulations 2026 [draft]

   - Annexe B: Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 [draft]

   - Annexe C: Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026 [draft]

Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.

4. Once laid, the instrument is referred to:

   - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

   - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.

6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:

   - an evidence session with the Cabinet Secretary and officials, followed by

   - a formal debate on a motion, lodged by the Cabinet Secretary, inviting the lead committee to recommend approval of the instrument.

7. Where a single debate is held on two or more instruments, they are moved at the beginning of the debate, debated together, and separate questions are then put at the end of the debate.

8. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on one of the motions, only committee members may vote. If the motions are agreed to, it is for the Chamber to decide, at a later date, whether to approve the instruments.

Report

9. Depending on the outcome of today's proceedings on the instruments, the Committee should either:

   - agree to consider a draft report in private at its next meeting (if members wish the report to make points of substance or recommendations); or

   - delegate to the Convener responsibility for approving a report for publication (if members are content with a short, factual report only).

Clerks to the Committee
November 2026

Annexe A: Deposit and Return Scheme for Scotland Amendment Regulations 2026 [draft]

Laid under: Section 96(4) of the Climate Change (Scotland) Act 2009

Laid on: 26 October 2026

Procedure: Affirmative

Lead committee to report by: 4 December 2026

Commencement: If approved, the regulations come into force on the day after the day on which they are made.

Delegated Powers and Law Reform Committee consideration

The DPLR Committee considered the instrument on 3 November 2026 and reported on it in its 16th report, 2026. The DPLR Committee made no recommendations in relation to the instrument and welcomed that it fulfils commitments made by the Scottish Government to correct errors in the Deposit and Return Scheme for Scotland Amendment Regulations 2025 (SSI 2025/188) and the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 (SSI 2025/189), respectively.

Purpose of the instrument

The purpose of the instrument is to amend the Deposit and Return Scheme for Scotland Regulations 2020, primarily to (i) allow SEPA to charge the scheme administrator for its regulatory enforcement activities in advance of 1 October 2027 and to bring offences in relation to the scheme administrator into force, (ii) remove the exemption from certain obligations for export shops, and (iii) introduce operational flexibility and associated communication requirements for hospitality retailers with respect to charging deposits for drinks intended for consumption exclusively on their premises. The instrument also corrects a number of drafting errors in the Deposit and Return Scheme for Scotland Regulations 2020.

The Policy Note accompanying the instrument is included below. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out for this instrument:

- Addendum to Business and Regulatory Impact Assessment (BRIA)
- Child Rights and Wellbeing Impact Assessment (CRWIA)

Scottish Government Policy Note

The above instrument was made in exercise of the powers conferred by sections 84, 89, 90 and 96(2) of the Climate Change (Scotland) Act 2009. The instrument is subject to the affirmative procedure.

Summary Box

Purpose of the instrument is to amend the Deposit and Return Scheme for Scotland Regulations 2020 primarily to (i) allow SEPA to charge the scheme administrator for its regulatory enforcement activities in advance of 1 October 2027 and to bring offences in relation to the scheme administrator into force, (ii) remove the exemption from certain obligations for export shops, and (iii) introduce operational flexibility and associated communication requirements for hospitality retailers with respect to charging deposits for drinks intended for consumption exclusively on their premises. The instrument also corrects a number of drafting errors in the Deposit and Return Scheme for Scotland Regulations 2020.

These amendments align with schemes due to be introduced in England and Northern Ireland on 1 October 2027 and support the successful implementation and operation of the Deposit Return Scheme

Policy Objectives

The main policy driver for Scotland's Deposit Return Scheme (DRS) is to promote and secure an increase in recycling of materials by applying a deposit to single-use drinks containers made of PET plastic and metal from 1 October 2027.

This forms part of the Scottish Government's response to the global climate emergency by ensuring the targeted materials are collected in larger quantities and separately to other materials, making them easier to recycle.

The Scottish Government initially announced the design of a DRS on 8 May 2019 and published draft Regulations on 10 September 2019. The DRS design and the draft Regulations were informed by extensive public consultation, international best practice and engagement with a broad range of stakeholders.[1]

The Deposit and Return Scheme for Scotland Regulations 2020 ("the 2020 Regulations") were approved by the Scottish Parliament in May 2020 and have subsequently been amended by the Deposit and Return Scheme for Scotland Amendment Regulations 2022, the Deposit and Return Scheme for Scotland Amendment Regulations 2023, the Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023 and the Deposit and Return Scheme for Scotland Amendment Regulations 2025. In addition, the scheme administrator is designated under the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 ("the Designation Order).

The Scottish Government, alongside the UK Government, DAERA, and the Welsh Government have a shared ambition to increase recycling rates of single-use plastic and metal drinks containers to at least 90%, to significantly cut littering, and to expand opportunities to collect and reprocess high quality materials.

This policy note relates to the Deposit and Return Scheme for Scotland Amendment Regulations 2026, referred to in this note as "this instrument". This instrument amends the 2020 Regulations. The Deposit and Return Scheme for Scotland (Designation of

[1] https://www.gov.scot/policies/managing-waste/deposit-return-scheme/

Scheme Administrator) Order 2026) ("the 2026 Order") was made at the same time and amends the Designation Order. Therefore the 2020 Regulations (as amended) and the Designation Order (as amended by the 2026 Order) both comprise the legislation which establishes the DRS in Scotland, and should therefore be read together. The policy note for the 2026 Order explains in more detail the provisions contained within the 2026 Order.

This instrument in particular makes the following amendments to the 2020 Regulations:

SEPA regulatory and enforcement charging and offences by the scheme administrator

The instrument will enable SEPA to recover regulatory and enforcement costs from Exchange for Change (the scheme administrator) from the commencement date (expected to be the end of December) and 01 October 2027. This will enable SEPA to fulfil its regulatory and enforcement functions in relation to the functions of the scheme administrator and support scheme implementation prior to launch on 1 October 2027, in line with the principle of producer responsibility. The instrument therefore amends the coming into force provisions in relation to SEPA's enforcement powers so that they apply in relation to functions of the scheme administrator; in addition offences under regulation 31(7)(a), (7A) (11) and (12) are also brought into effect in relation to the scheme administrator.

Scheme administrator annual report

A minor amendment is made to change the deadline for submission of the scheme administrator's annual report so that Exchange for Change will have 12 weeks (instead of 6 weeks) from the end of each relevant year of operation of DRS to submit its report to the Scottish Ministers. The change requested by Exchange for Change, provides greater flexibility for the scheme administrator in meeting the relevant requirement

Export shops

Export shops in Scotland are currently exempt from the requirements of the DRS to charge the deposit, and to communicate the amount of deposit and nearest return point to customers. This exemption was initially introduced for high value drinks sold in glass bottles (e.g. whisky, wine) that were not able to be consumed in Scotland after purchase. However, the exemption is no longer considered to be required without glass drinks bottles in scope of the DRS. This instrument removes the exemption that currently applies to export shops to ensure consistency with other retailers which operate in the same airport locations as export shops.

Obligations in relation to hospitality retailers

This instrument provides hospitality retailers (such as hotels, cafes, restaurants and bars) with greater flexibility in determining how deposits are charged for drinks that are intended for exclusive consumption by customers on the premises of sale.

The DRS Regulations currently exempt a hospitality retailer which sells drinks intended exclusively for consumption on the premises of sale from requirements to charge the deposit, and to communicate the amount of the deposit and nearest return point to customers, and require the hospitality retailer to retain empty containers for

collection by the scheme administrator. This instrument amends the DRS Regulations to require hospitality retailers, similar to existing obligations on other retailers, to charge deposits on scheme articles that they market, offer for sale or sell to consumers whether or not the drinks are for consumption on or off the premises of sale. In these circumstances hospitality retailers must then meet obligations to communicate the amount of the deposit and the location of the nearest return point to a consumer.

However, where a hospitality retailer markets, offers for sale or sells a scheme article exclusively for consumption on the premises of sale, they still have the option to be exempt from charging the deposit on such drinks. In these circumstances they must communicate that no deposit is required to be charged and that customers are not to remove empty containers from the premises. The instrument also removes the requirement (currently in regulation 20A of the DRS Regulations) on a hospitality retailer to retain empty containers for collection by the DRS scheme administrator. The requirement on the scheme administrator to collect from a hospitality retailer is also amended by this instrument so that the scheme administrator is only required to provide a collection if one is requested by the hospitality retailer. Any such collection would be free of charge.

The amendments in this instrument bring obligations placed on hospitality retailers into alignment with schemes across the UK and clarify the options and respective obligations associated with selling DRS scheme articles which are intended exclusively for consumption on the premises. The instrument does not impact on the existing duty of care in relation to managing controlled waste under section 34 of the Environmental Protection Act 1990 and the related code of practice, as well as the duty to take reasonable steps to apply the waste hierarchy, which apply more generally to hospitality retailers. Therefore, recycling targets are not expected to be affected by this amendment.

Offences

Some minor amendments are made to the offences provision in regulation 31 of the 2020 Regulations. New offences are inserted in the appropriate places in regulation 31 to make it an offence for registered producers, groceries retailers and takeback service providers to fail to provide information to the scheme administrator when there is a material change in information related to its registration; this was already an offence in relation to voluntary return point operators so this provides consistency across similar requirements under to the 2020 Regulations. Some other minor changes are made to ensure drafting consistency across the offences provisions.

Corrective Action

This instrument amends various provisions of the 2020 Regulations to correct errors in amendments which were made by the Deposit and Return Scheme for Scotland Amendment Regulations 2025 (SSI 2025/188). This meets the undertaking given to the Delegated Powers and Law Reform Committee to take corrective action in relation to SSI 2025/188.

In particular this instrument corrects the errors as follows –

- regulation 4 corrects errors in regulation 2 of the 2020 Regulations by re-inserting the definitions of “sum equal to the deposit” and “returnable packaging” in the correct alphabetical order;

- regulation 9 removes the opening words of regulation 20(2) of the 2020 Regulations which then removes a minor error in those opening words;

- regulation 11 substitutes erroneous cross-references in regulations 20ZB and 20ZC of the 2020 Regulations so that they now refer to regulation 22(a) or (b) (instead of regulation 20ZA);

- regulation 12 corrects regulation 31 of the 2020 Regulations to remove references to paragraphs (5A) and (13) which are no longer required since the corresponding requirements no longer exist in the 2020 Regulations;

- regulation 14 amends paragraph 8 of schedule 1C of the 2020 Regulations to insert the missing word “size” in relation to information required in an application for an return point exemption. –

In addition, regulation 13 amends paragraph 3 of each of schedules 1, 1A, 1B and 1C of the 2020 Regulations to remove unnecessary wording relating to a register kept by Companies House to ensure drafting is more consistent with normal practice.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children’s rights.

“In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Deposit and Return Scheme for Scotland Amendment Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.”

EU Alignment Consideration

The relevant EU legislation that relates to Scotland’s DRS includes Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment; Directive 94/62/EC on packaging and packaging waste (PPWD); and Regulation (EU) 2025/40 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC (PPWR).

PPWR came into force in August 2026 and establishes further requirements for extended producer responsibility, packaging waste prevention, such as the reduction of unnecessary packaging and the re-use or refill of packaging. It also introduces further collection, treatment and including recycling requirements for packaging waste. In particular, it obliges EU member states, by 1 January 2029, to ensure the separate collection of at least 90% per year by weight of the following packaging formats which are introduced on to its market for the first time in a given calendar year:

- single-use plastic beverage bottles with a capacity of up to 3 litres;

- single-use metal beverage containers with a capacity of up to 3 litres.

To achieve these targets, EU member states must ensure that deposit and return systems (DRS) are set up for the relevant packaging formats and that a deposit is charged at the point of sale, unless such collection requirements are already being met by other means.

The PPWR also stipulates minimum requirements that DRS systems must meet, including:

- ensuring equal access and fair conditions for all economic operators,
- establishing control procedures and reporting systems,
- fixing a minimum deposit amount to achieve the collection targets,
- obliging final distributors to accept the deposit bearing packaging,
- deposit bearing packaging is clearly labelled.

The 2020 Regulations (as amended) together with the Designation Order (as amended by the 2026 Order) provide the necessary legislation to align with the requirement of the PPWR to increase recycling rates of single-use plastic and metal drinks containers to at least 90% and to establish a DRS to do so.

Consultation

An extensive public consultation was carried out in 2018 to inform the design of Scotland's DRS. The Scottish Government reviewed the implementation timetable in 2022 following an independent gateway review and engagement with industry stakeholders, resulting in a revised implementation date of 16 August 2023.

Stakeholder engagement has been part of scheme assurance processes since 2023, and has included producers, retailers, wholesalers, the scheme administrator, SEPA and hospitality sector representatives.

More recently, stakeholder engagement has continued on a three-nation basis alongside the UK Government Department for Environment, Food and Rural Affairs (Defra), and the Department for Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland. Scottish Government officials have met regularly with representative organisations and individual businesses to address any issues identified as the scheme is implemented. The proposed amendments have been requested by the affected stakeholders following this engagement and during their implementation of the DRS, and have been discussed with industry representatives, the DRS scheme administrator, and SEPA.

This instrument and the 2026 Order have been made to provide sufficient time for businesses to prepare ahead of 1 October 2027.

Impact Assessments

A full suite of impact assessments were updated and published when amendments were made to the DRS Regulations in 2025, including a Business and Regulatory

Impact Assessment (BRIA), Fairer Scotland Duty (FSD) assessment, Equality Impact Assessment (EQIA), and Island Communities Impact Assessment (ICIA). An addendum to the BRIA has been completed for this policy. A Child Rights and Wellbeing Impact Assessment (CRWIA) was also completed for this instrument.

It is recognised, taking into account experiences of existing deposit return schemes in other countries, that the scheme imposed by the 2020 Regulations and the Designation Order will have an impact upon industry and consumers. The DRS will be reviewed once it is fully operational and sufficient time has passed to allow data to be available to evaluate its impact on all sectors. Scottish Ministers must complete a review of the scheme by October 2032.

Financial Effects

An Addendum to the Final Business and Regulatory Impact Assessment (BRIA) has been completed for this policy and will be published alongside this instrument.

Scottish Government

Environment and Forestry Directorate

26 October 2026

Annexe B: Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 [draft]

Laid under: Section 96(4) of the Climate Change (Scotland) Act 2009

Laid on: 26 October 2026

Procedure: Affirmative

Lead committee to report by: 4 December 2026

Commencement: If approved, the order comes into force on the day after the day on which it is made.

Delegated Powers and Law Reform Committee consideration

The DPLR Committee considered the instrument on 3 November 2026 and reported on it in its 16th report, 2026. The DPLR Committee made no recommendations in relation to the instrument and welcomed that it fulfils commitments made by the Scottish Government to correct errors in the Deposit and Return Scheme for Scotland Amendment Regulations 2025 (SSI 2025/188) and the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 (SSI 2025/189), respectively.

Purpose of the instrument

The purpose of the instrument is to amend the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025, which designates “UK Deposit Management Organisation Limited” (now trading under the name of Exchange for Change) as the scheme administrator for the Deposit and Return Scheme in Scotland.

The instrument is amended to enable the scheme administrator to make arrangements relating to interest on late payments on producer fees, should a producer fail to pay their producer fees as agreed with the scheme administrator. It also corrects a number of drafting errors in the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025.

The Policy Note accompanying the instrument is included below. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out for this instrument:

- Addendum to Business and Regulatory Impact Assessment (BRIA)
- Child Rights and Wellbeing Impact Assessment (CRWIA)

Scottish Government Policy Note

The above instrument was made in exercise of the powers conferred by sections 85 and 96(2) of the Climate Change (Scotland) Act 2009. The instrument is subject to the affirmative procedure.

Summary Box

Purpose of the instrument is to amend the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025, which designates "UK Deposit Management Organisation Limited" (now trading under the name of Exchange for Change) as the scheme administrator for the Deposit and Return Scheme in Scotland.

The instrument is amended to enable the scheme administrator to make arrangements relating to interest on late payments on producer fees, should a producer fail to pay their producer fees as agreed with the scheme administrator. It also corrects a number of drafting errors in the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025.

Policy Objectives

The main policy driver for Scotland's Deposit Return Scheme (DRS) is to promote and secure an increase in recycling of materials by applying a deposit to single-use drinks containers made of PET plastic and metal from 1 October 2027.

This forms part of the Scottish Government's response to the global climate emergency by ensuring the targeted materials are collected in larger quantities and separately to other materials, making them easier to recycle.

The Scottish Government initially announced the design of a DRS on 8 May 2019 and published draft Regulations on 10 September 2019. The DRS design and the draft Regulations were informed by extensive public consultation, international best practice and engagement with a broad range of stakeholders.[2]

The Deposit and Return Scheme for Scotland Regulations 2020 ("the 2020 Regulations") were approved by the Scottish Parliament in May 2020 and have subsequently been amended by the Deposit and Return Scheme for Scotland Amendment Regulations 2022, the Deposit and Return Scheme for Scotland Amendment Regulations 2023, the Deposit and Return Scheme for Scotland (Miscellaneous Amendment) Regulations 2023 and the Deposit and Return Scheme for Scotland Amendment Regulations 2025. In addition, the scheme administrator is designated under the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 ("the Designation Order").

The Scottish Government, alongside the UK Government, DAERA, and the Welsh Government have a shared ambition to increase recycling rates of single-use plastic

[2] https://www.gov.scot/policies/managing-waste/deposit-return-scheme/

and metal drinks containers to at least 90%, to significantly cut littering, and to expand opportunities to collect and reprocess high quality materials.

This policy note relates to the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026, referred to in this note as "this instrument". This instrument amends the Designation Order. The 2020 Regulations are being further amended by the Deposit and Return Scheme for Scotland Amendment Regulations 2026 ("the Amendment Regulations") which come into force on the same day as this instrument. Therefore the 2020 Regulations (as amended) and the 2025 Order (as amended by this instrument) both comprise the legislation which establishes the DRS in Scotland and should therefore be read together. The policy note for the Amendment Regulations explains in more detail the provisions contained within the Amendment Regulations.

This main amendment being made to this instrument is to provide the scheme administrator, Exchange for Change, with a power to charge interest on late payments on producer fees, should a producer fail to pay their producer fees as agreed with the scheme administrator.

Corrective Action

This instrument amends various provisions of the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 (SSI 2025/189) to correct minor drafting errors in it. This meets the undertaking given to the Delegated Powers and Law Reform Committee to take corrective action in relation to SSI 2025/189.

In particular this instrument corrects the errors as follows –

- article 3 inserts a definition of "producer" into article 2 of the Designation Order since it had been erroneously omitted;
- articles 5 and 6(a) correct references to "producer" or, as the case may be, "registered producer" in articles 24 and 25 of the Designation Order;
- article 7 amends article 29(1)(b) to insert the missing word "size" in relation to the criteria for granting an application for a return point exemption;
- articles 8(a) and 9 replace erroneous cross-references in articles 31(9)(b) and 34(10)(b) of the Designation Order;
- article 8(b) inserts the missing words "a right" into article 31(13)(c) of the Designation Order.

In addition, article 4 amends article 16 of the Designation Order to remove the words "under this Part" which could constrain payments that could be made to SEPA under the Designation Order.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

"In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Amendment Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act."

EU Alignment Consideration

The relevant EU legislation that relates to Scotland's DRS includes Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment; Directive 94/62/EC on packaging and packaging waste (PPWD); and Regulation (EU) 2025/40 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC (PPWR).

PPWR came into force in August 2026 and establishes further requirements for extended producer responsibility, packaging waste prevention, such as the reduction of unnecessary packaging and the re-use or refill of packaging. It also introduces further collection, treatment and including recycling requirements for packaging waste. In particular, it obliges EU member states, by 1 January 2029, to ensure the separate collection of at least 90% per year by weight of the following packaging formats which are introduced on to its market for the first time in a given calendar year:

- single-use plastic beverage bottles with a capacity of up to 3 litres;
- single-use metal beverage containers with a capacity of up to 3 litres.

To achieve these targets, EU member states must ensure that deposit and return systems (DRS) are set up for the relevant packaging formats and that a deposit is charged at the point of sale, unless such collection requirements are already being met by other means.

The PPWR also stipulates minimum requirements that DRS systems must meet, including:

- ensuring equal access and fair conditions for all economic operators,
- establishing control procedures and reporting systems,
- fixing a minimum deposit amount to achieve the collection targets,
- obliging final distributors to accept the deposit bearing packaging,
- deposit bearing packaging is clearly labelled.

The 2020 Regulations (as amended) together with the Designation Order (as amended by this instrument) provide the necessary legislation to align with the requirement of the PPWR to increase recycling rates of single-use plastic and metal drinks containers to at least 90% and to establish a DRS to do so.

Consultation

An extensive public consultation was carried out in 2018 to inform the design of Scotland's DRS. The Scottish Government reviewed the implementation timetable in

2022 following an independent gateway review and engagement with industry stakeholders, resulting in a revised implementation date of 16 August 2023.

Stakeholder engagement has been part of scheme assurance processes since 2023, and has included producers, retailers, wholesalers, the scheme administrator, SEPA and hospitality sector representatives.

More recently stakeholder engagement has continued on a three-nation basis alongside the UK Government Department for Environment, Food and Rural Affairs (Defra), and the Department for Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland. Scottish Government officials have met regularly with representative organisations and individual businesses to address any issues identified as the scheme is implemented, including discussion of the amendments in this instrument.

This Order and the DRS Amendment Regulations have been made to provide sufficient time for businesses to prepare ahead of 1 October 2027.

Impact Assessments

A full suite of impact assessments were updated and published when amendments were made to the DRS Regulations in 2025, including a Business and Regulatory Impact Assessment (BRIA), Fairer Scotland Duty (FSD) assessment, Equality Impact Assessment (EQIA), and Island Communities Impact Assessment (ICIA). An addendum to the BRIA has been completed for this policy. A Child Rights and Wellbeing Impact Assessment (CRWIA) was also completed for this instrument.

It is recognised, taking into account experiences of existing deposit return schemes in other countries, that the scheme imposed by the 2020 Regulations and the Designation Order will have an impact upon industry and consumers. The DRS will be reviewed once it is fully operational and sufficient time has passed to allow data to be available to evaluate its impact on all sectors. Scottish Ministers must complete a review of the scheme by October 2032.

Financial Effects

An Addendum to the Final Business and Regulatory Impact Assessment (BRIA) has been completed for this policy and will be published alongside this instrument.

Scottish Government

Environment and Forestry Directorate

26 October 2026

Annexe C: The Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026 [draft]

Laid under: Section 58(3) of the Regulatory Reform (Scotland) Act 2014

Laid on: 26 October 2026

Procedure: Affirmative

Lead committee to report by: 4 December 2026

Commencement: If approved, the order comes into force on the day after the day on which it is made.

Delegated Powers and Law Reform Committee consideration

The DPLR Committee considered the instrument on 3 November 2026 and reported on it in its 16th report, 2026. The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

The Policy Note accompanying the instrument is included below. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:

- Addendum to Business and Regulatory Impact Assessment (BRIA) (for amendments being made to DRS Regulations)
- Child Rights and Wellbeing Impact Assessment (CRWIA)

Scottish Government Policy Note

The above instrument was made in exercise of the powers conferred by sections 20(1), 23(1), 27(1) and 58(1) of the Regulatory Reform (Scotland) Act 2014. The instrument is subject to the affirmative procedure.

Summary Box

To amend the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (2015 Order) to include offences created by The Deposit and Return Scheme for Scotland Regulations 2020 and The Digital Waste Tracking (Scotland) Regulations 2026.

Policy Objectives

This Order will amend the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 to enable the Scottish Environmental Protection Agency (SEPA) to use their civil sanction powers in respect of offences under:

i) The Deposit and Return Scheme for Scotland Regulations 2020 (as amended) (the DRS Regulations) when the Deposit Return Scheme goes live on 1 October 2027; except in relation to offences committed by the scheme administrator under regulation 31(7)(a), (7A), (11) or (12) which come into force at the same time as this Order.

ii) The Digital Waste Tracking (Scotland) Regulations 2026 (the DWT Regulations) when the scheme goes live on 1 January 2027.

The DRS Regulations place obligations on producers, retailers, groceries retailers, hospitality retailers, return point operators, takeback service providers and the scheme administrator (Exchange for Change) in relation to the deposit return scheme.

The DWT Regulations introduce the first phase of a mandatory digital reporting system for waste data, which replaces the current, largely paper-based system.

SEPA is responsible for enforcing the DRS Regulations and the DWT Regulations in Scotland. The 2015 Order provides SEPA with a suite of civil enforcement measures, including the imposition of both fixed and variable monetary penalties and the power to accept enforcement and other undertakings within the scope of the 2015 Order. This SSI will enable SEPA to take proportionate enforcement action against organisations that have committed offences specified in the DRS Regulations or the DWT Regulations by allowing SEPA to impose civil sanctions for offences, rather than relying on criminal prosecution.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

"In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act."

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

As the responsible regulator, SEPA was involved in the development of this Order, and the Scottish Ministers have had regard to SEPA's views on which penalties should be applicable to the range of offences.

Impact Assessments

A full suite of impact assessments were updated and published when amendments were made to the DRS 2020 Regulations in 2025, including a Business and Regulatory Impact Assessment (BRIA), Fairer Scotland Duty (FSD) assessment, Equality Impact Assessment (EQIA), and Island Communities Impact Assessment (ICIA). An addendum to the BRIA has been completed for amendments being made to the DRS Regulations.

Full impact assessment of the Digital Waste Tracking system has been undertaken and published by both the UK and Scottish Governments.

A Child Rights and Wellbeing Impact Assessment (CRWIA) was also completed for this Order.

Financial Effects

A full Business and Regulatory Impact Assessment (BRIA) has been completed and published for both the Deposit Return Scheme and Digital Waste Tracking. A separate BRIA was not completed for this SSI.

There are no direct financial effects associated with this SSI. Scottish Government

Environment and Forestry Directorate

26 October 2026