

CONSULTATION PAPER ON POTENTIAL LEGISLATIVE MEASURES TO IMPLEMENT ZERO WASTE



Ministerial foreword by the Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead

Moving towards a Zero Waste society will ensure we obtain greater economic, social and environmental value from the resources which have been considered to be waste. Zero Waste is a concept which is increasingly being adopted internationally. Zero Waste is about reducing the unnecessary use of raw materials, sustainable design of products, preventing waste, and recovering value from products and materials when they reach the end of their lives through recycling, composting or energy recovery.

The work in this area contributes to our work on combating climate change. Waste management alone contributes about 2.5% of the Scottish Greenhouse Gas emissions. And reducing the unnecessary use of raw materials, preventing waste, using recycle and getting value from waste rather than just throwing it away can all contribute further to tackling climate change.

Achieving the Scottish Government's ambitious targets will be a challenge but most people and many of the organisations I have spoken to are keen for Scotland to rise to the challenge. Hard work will be required by Government, the Scottish Environment Protection Agency (SEPA), local authorities, the private waste industry, the community recycling sector, waste delivery bodies, businesses and public sector bodies which produce waste and householders.

In particular, we will need:

- The Government, with help from SEPA and the Convention of Scottish Local Authorities (CoSLA), to produce a clear and comprehensive revised National Waste Management Plan for Scotland, showing the people of Scotland how Zero Waste can be achieved.
- SEPA to continue its work to improve waste data and to ensure that regulation is proportionate.
- Local authorities to continue their work to increase recycling and composting and improve local recycling facilities.
- Linked Waste Aware Scotland information programmes to provide information to householders on recycling facilities, particularly aimed at specific materials and specific areas.
- Continued work by the Waste and Resources Action Programme and REMADE Scotland to develop markets for products so that they can be recycled, particularly in relation to difficult materials such as mixed plastics.

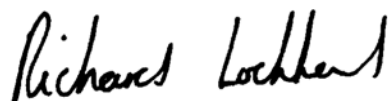
- More reprocessing facilities in Scotland to turn recycled materials and compost into new products.
- Increasing recognition by private sector businesses of the need for cleaner design of products, to reduce the unnecessary use of raw materials, to reduce the amount of waste produced and to reduce the amount of waste sent to landfill.
- Improved performance by the public sector, including the Scottish Government, to reduce the amount of waste we produce and send to landfill and a stronger lead in procuring products which utilise recycled materials.
- Everyone in Scotland to recognise the part they can play in achieving a zero waste society.

When considering the way ahead, the Scottish Government considers that legislation may play a part. As outlined in paragraph 8.13 of the consultation on the proposals for the Scottish Climate Change Bill, the Government is considering if specific provisions on waste management should be included in the Climate Change Bill.¹ Other countries in the EU – with higher recycling rates than Scotland – have legislation in place to encourage environmentally sustainable behaviour by business, retailers, the public sector and individuals. In Scotland, most of the legislation in place on waste implements EU Directives. On the whole, we have not gone beyond that.

However, we need to be sure that any legislative proposals add real value and do not have unintended adverse consequences. The purpose of this consultation is to test our initial proposals against these criteria and encourage debate and discussion on ideas on waste minimisation.

It is important to note that implementing the proposals in this paper would require secondary legislation which would also be scrutinised by Parliament and developed following further consultation on the detailed implementation. We think this is the right approach because our aim is to develop a framework of relevant powers that can be used if and when they are needed on the journey towards a zero waste society.

This journey will be a long one. It is, however, an essential journey that will safeguard the planet's resources as well as creating economic activity and bringing other benefits. We aim to change how a nation regards its waste and resources. We want to ensure that the people of Scotland are fully engaged with its Government as we embark on that journey.



RICHARD LOCHHEAD
Cabinet Secretary for Rural Affairs and the Environment

¹ www.scotland.gov.uk/Publications/2008/01/28100005/8

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INTRODUCTION

The Scottish Government is committed to moving towards a Zero Waste Scotland. This will help to ensure we use resources properly. It will also help combat climate change.

This consultation seeks views on proposed primary legislation to help implement Zero Waste. None of the proposed measures would take effect until secondary legislation – regulations – are made. There will be full consultation on any such regulations before they are enacted.

Up until now, most waste legislation in Scotland has been designed to prevent pollution and protect animal health. Annex B to this consultation gives a brief summary of existing legislation. The new proposals contained in this consultation focus on the resource implications of waste and seek to encourage waste reduction and recycling. The proposals come from a variety of sources: experience in other countries; existing voluntary work and the Zero Waste Think Tank. They have been informed by discussions with the Convention of Scottish Local Authorities.

Details of how to respond to this consultation are contained in Annex E.

The Scottish Government recognises that other secondary legislation, using existing powers, may help to implement zero waste. For example, the Government has been considering whether regulations could be made, using existing powers under the Pollution, Prevention and Control Act, to ban more materials from going to landfill. Work in this area will be taken forward as part of the forthcoming review of the National Waste Plan for Scotland and does not form part of this consultation.

PROPOSAL 1: DUTIES ON PUBLIC BODIES AND BUSINESSES TO PROVIDE RECYCLING FACILITIES

Proposal

To further encourage recycling by giving a power to the Scottish Government to make regulations which would impose duties on public sector bodies and businesses to provide recycling facilities for customers, staff and, where appropriate, members of the public. The regulations would specify which bodies and businesses were to be subject to this duty and the nature of the recycling facilities that would be required.

Background

In recent years, local authorities have improved recycling and composting facilities for householders. Over 80% of households in Scotland regularly participate in recycling to some degree. The Scottish recycling/composting rate for household waste is now over 30%.

As householders are given the opportunity to recycle at home, they also wish to recycle when they are at work or carrying out other business. Many employers already provide recycling facilities for their staff. As the cost of landfill increases (because of higher Landfill Tax and higher standards at landfill sites) it is likely that more such facilities will be provided. Waste Aware Scotland (www.wasteawarebusiness.org.uk) run a recycling directory for business and outlines available services.

Outwith work, recycling facilities can be found in a variety of places such as at airports, on the street and at retailers. Retailers can take steps to meet their obligations under the Packaging Regulations (requiring the recovery of a proportion of the packaging put on the market) by installing recycling facilities at their stores.

How the proposal would work

Power would be taken to allow the Scottish Ministers to make regulations. These regulations could:

- require businesses and public sector bodies with units over a certain size to provide recycling facilities (a rolling implementation period would allow time for recycling contractors to respond to the demand);
- set out the types of businesses and the types of sites covered by the duty (e.g. retailers, shopping centres, airports, beaches, car parks, cinemas, entertainment sites, parks, road lay-bys, sports stadia, visitor attraction and Government buildings);
- make provisions for any exemptions relating to certain categories of business (eg there might need to be an exemption for railway stations, given security concerns about recycling bins in stations);
- specify which materials should be collected and whether facilities should be made available including, for example, any facilities that might be required to remove excess packaging in larger stores;
- require the owners and occupiers of the premises covered by the duty to make arrangements for the materials in the recycling facilities to be collected and transported for recycling or re-use;

- Require the owners and occupiers to keep records on the facilities provided, the amounts collected and where material to be recycled was sent;
- Lay down appropriate penalties or civil sanctions for non-compliance. The regulations would need to be enforced, probably by local authorities. We might also need to consider if it is necessary to amend existing powers for local authorities to collect commercial waste to ensure that they can act as collector of last resort and have the power to charge for this, if private or community sector recycling firms should be unavailable; and
- In addition, give local authorities powers to require recycling facilities to be provided in certain locations in private ownership in their areas which regularly attract large numbers of the public, for example, at sports, recreational or entertainment facilities or events.

Alternatives

There are potential alternatives to legislation in this area.

One alternative is a voluntary Code of Practice on recycling outwith the home. This could provide guidance on setting up recycling systems and providing information to the public on how to use them. Businesses and public bodies could also be invited to show their support for the Code and provide recycling facilities for their employees and for the public.

Another possibility is to limit mandatory recycling facilities to certain materials at certain places (this would be quite feasible using the powers proposed above so it is not strictly speaking an alternative). For example, California and New York are requiring large retailers to have recycling facilities for plastic bags (many Scottish retailers already provide such facilities).

Questions

Consultees are asked:

1. Do you consider that legislation should be made in this area?
2. If so, what form should that legislation take?

PROPOSAL 2: PACKAGING

Proposal

To encourage waste prevention by giving powers to the Scottish Government to make regulations on packaging which would set statutory targets on retailers for packaging reductions.

Background

Packaging is generally a devolved matter but action up until now has generally been taken on either a United Kingdom wide basis. For example, there are already producer responsibility regulations on packaging, which require those who put packaging on the market to recycle and recover proportions of it. These regulations implement EU requirements. For Scotland, these regulations have led to the recovery of around 600,000 tonnes of packaging a year.

There is also a programme of work at UK level to encourage retailers to reduce packaging on a voluntary basis. Specifically, the Waste and Resources Action Programme (WRAP) have entered into a Courtauld Commitment with retailers (www.wrap.org.uk/retail/courtauld_commitment/index.html). Participating retailers are committed to:

- design out packaging waste growth by 2008;
- deliver absolute reductions in packaging waste by 2010; and
- identify ways to tackle the problem of food waste.

This area of work is a devolved matter but is carried out by agreement on a UK basis.

Within Scotland, Waste Aware Scotland are carrying out work to provide better information to the public on the nature of packaging and how to complain effectively about excess packaging.

Although packaging is generally a devolved matter, there are one set of regulations on packaging which are a reserved matter for the UK Government. These regulations lay down essential requirements in relation to packaging, including provisions on excess packaging. Again, these regulations implement EU requirements. These regulations are largely seen as ineffective in addressing unnecessary packaging because of the difficulty of demonstrating proof (there have only been four prosecutions under them across the UK, and none of them in Scotland).

There are also criticisms of the producer responsibility regulations. These criticisms relate to two specific areas. Firstly that firms have been able to meet their obligations by concentrating on “back of store” packaging waste (i.e. business to business packaging) rather than “front of store” waste, where the resulting cost for treatment is, in effect, borne by local authorities as part of their waste management responsibilities. Secondly, it is claimed that obligations under the regulations in relation to recovery and recycling of a specified percentage of packaging waste do not, in practice, act as an incentive to reduce waste by designing out unnecessary packaging. However, we have recently introduced (with the UK Government and the other Devolved Administrations) increases in the recovery and recycling obligations and this may help to address these criticisms.

Some packaging is required to ensure that goods reach consumers in a safe and hygienic way and to ensure that key information is provided to the consumer. Many consumers consider that this can be excessive, particularly for certain products such as, for example, Easter eggs and certain types of electronic equipment

How the proposal would work

Power would be taken to make further regulations on packaging. These regulations could:

- Set statutory targets (impacting on retailers) on packaging reduction.
- Require retailers to provide information on the amount of packaging on goods being sold to consumers.
- Deal with enforcement (by the Scottish Environment Protection Agency or local authorities); record keeping by retailers and their supply chains; potential penalties or civil sanctions for non-compliance.

Alternatives

The alternative would be to continue with the existing work on packaging, as outlined above.

Questions

Consultees are asked:

1. Do you consider that legislation should be made in this area?
2. If so, what form should that legislation take?

PROPOSAL 3 : SPECIFYING RECYCLATE

Proposal

To encourage recycling by taking powers to enable the Scottish Government to place a duty on public bodies and businesses to specify a minimum percentage of material made from recyclate in procurement contracts.

Background

Specifying recycled content in procurement contracts helps stimulate demand for recycled products. This is important when local authorities, and others, are collecting more materials for recycling and need strong, stable markets for the recyclate. The previous administration laid down voluntary requirements on public bodies in Scotland on specifying recyclate in contracts relating to paper and construction.

A number of public and private sector bodies have taken significant steps in this area: for example, Glasgow City Council have a sustainable procurement policy which includes the specification of recyclate. The Scottish Government introduced a new type of paper this year which is made from 100% recycled material.

WRAP have case studies in a variety of areas, including construction (www.wrap.org.uk/construction/rc_teasers_page.html).

The European Commission document, “Buying Green” outlines the opportunities arising from sustainable procurement (ec.europa.eu/environment/gpp/pdf/buying_green_handbook_en.pdf).

The key point is to specify environmental aims, such as recycled content, right at the start, so that all potential tenderers are aware of what is required and can operate on a level playing field.

How the proposal would work

The proposed legislation would enable the Scottish Ministers to make regulations requiring the public sector, and business, to specify a minimum percentage of material made from recyclate (including compost) in procurement contracts. The regulations would:

- specify the types of public bodies and businesses to be included;
- lay down the nature of the materials and the contracts to which the duty would apply (including exemptions and whether the requirements would not apply to contracts below a certain value). We would need to make certain that any provisions on construction were in line with the Construction Products Directive, which requires free movement of construction products across the EU; and
- require records to be kept and lay down provisions for enforcement.

Alternative

The alternative to legislation on specifying recyclate in contracts would be to continue (and reinforce) the voluntary approach to environmental procurement (eg issuing guidance).

Questions

Consultees are asked:

1. Do you consider that legislation should be made in this area?
2. If so, what form should that legislation take?

PROPOSAL 4: WASTE PREVENTION PLANS

Proposal

To encourage waste prevention and recycling by taking powers to enable the Scottish Government to place a duty on public bodies and businesses to have waste prevention plans.

Background

Up until now, the focus of Government attention has been on municipal (mainly household) waste. However, this only makes up around 3.5 million tonnes of Scotland's waste. Scotland generates over 20 million tonnes of waste a year, with the vast majority of this waste coming from the commercial and industrial sectors.

There are already steps in place to reduce the amount of commercial and industrial waste that is produced. Envirowise Scotland (www.envirowise.gov.uk/scotland) provides advice to business on cleaner design, reducing the unnecessary use of raw materials and waste prevention. Envirowise have also been promoting Site Waste Management Plans on a voluntary basis and paragraph 52 of Scottish Planning Policy 10 on waste management (www.scotland.gov.uk/Publications/2006/08/11100231/0) also encourages their use. A Site Waste Management Plan records the amount and type of waste produced on a construction site and how it will be reused, recycled or disposed.

Taking action on waste prevention has an environmental benefit and also reduces costs to business and so helps the bottom line. The Landfill Tax also acts as an incentive to reduce the amount of waste produced and reduce the amount sent to landfill. The Scottish Government is also working with public bodies to improve environmental performance.

The Scottish Government recognises the need to put its own house in order. We have taken steps to reduce our own waste by, for example, encouraging staff not to print material unnecessarily; installing double-sided printers and providing information to staff, through Waste Aware Scotland, on minimising food waste (e.g. by not over-ordering at meetings).

How the proposal would work

The Scottish Ministers would be given the power through regulations to require public sector bodies (including the Scottish Government itself, non-Departmental Public Bodies, Local Authorities and the NHS) and businesses operating in Scotland to have waste prevention plans.

The regulations would:

- Identify which public bodies and businesses would be covered and the circumstances in which plans must be prepared (including potential exemptions for small public bodies and business);
- Outline the specified content of the plan, including any provisions on the design of buildings and the letting of contracts which could drive cleaner design, waste prevention and sustainable waste management; and

- Outline how the requirement is to be enforced, including the powers given to enforcement authorities, a possible duty to make plans publicly available and civil sanctions or penalties for non compliance.

Alternative

The alternative would be to continue action in these areas on a non-statutory basis.

Questions

Consultees are asked:

1. Do you consider that legislation should be made in this area?
2. If so, what form should that legislation take?
3. What public bodies and businesses should be covered?

PROPOSAL 5: DEPOSIT AND RETURN

Proposal

To encourage recycling and reuse by taking powers to enable the Scottish Government to introduce deposit and return systems.

Background

In Scotland, there used to be systems in place (on a non-statutory basis) under which consumers were charged a deposit for some bottles (eg lemonade bottles) and then got the deposit back when they returned the bottles. The bottles were then sent back to the manufacturer for re-filling (i.e. the bottles were re-used rather than sent off for recycling). These systems have largely disappeared from Scotland although Barrs still use it for some of their Irn Bru bottles.

A similar system also operated in relation to delivery of milk bottles: these were returnable, although no deposit was charged in the first place. Again, this is much less common now, as most people buy their milk from retailers, rather than get it delivered.

Other countries (including some EU Member States, such as Denmark, and some states in North America) have statutory systems for deposit and refund of drink containers. In Denmark, deposits apply to all cans and bottles that contain beer, soft drinks, alcopops, energy drinks and cider products. The amount of the deposit is laid down by the Danish Ministry of the Environment. The deposit is refunded when the container is returned to a store or outlet. From 1 December 2008, the deposit system in Denmark is being extended to mineral water, lemonade and iced tea.

More information on the Danish system is at www.dansk-retursystem.dk/content/us/the_danish_system/danish_deposit_and_return_system The system in Newfoundland and Labrador is outlined at www.mmsb.nf.ca/programs-beverage.htm

In Denmark, the return rate for bottles for recycling is around 85%: it approaches 100% for refillable bottles designed for re-use. In Scotland, we estimate that currently around 30% to 40% of glass bottles are recycled and around 35% of household plastic bottles are recycled, using existing arrangements such as bottle banks in the street or elsewhere and kerbside collections. An effective deposit and return scheme would be likely to supersede these arrangements which have been developed, for the most part, with public funding.

A statutory deposit and return scheme could help reduce litter, as there would be a financial incentive to return the container to the retailer.

As in Scotland, there are also some deposit and refund systems in place in other countries on a voluntary basis, without legislation. There are also examples of other countries and jurisdictions running deposit and return schemes, whilst their neighbours do not.

Any moves to a statutory deposit and return system in Scotland would require close and further consultation with retailers and other bodies. We would also need to ensure that any statutory system was in line with our EU obligations.

It would be important to design the scheme so that it encouraged the use of modern technologies known as “reverse vending” which can help to automate the return of bottles and cans.

How the proposal would work

The Scottish Government would be empowered to make regulations to introduce statutory deposit and return systems for drinks containers made from glass, metal or plastic. It might also be sensible to provide for a possible extension of this in due course to include other forms of packaging such as: food tins, plastic tubs and aluminium trays for take-away food.

The regulations would need to cover a wide range of areas, including:

- The precise types of drinks containers to be covered;
- any other forms of packaging to be covered;
- the deposits to be paid;
- the requirements on retailers (including small ones) to charge the deposit, take the containers back and pay the deposit back;
- record keeping by retailers;
- responsibility for the management of the scheme and its enforcement – ideally this would be an existing body such as, for example, SEPA;
- a duty on those receiving drinks containers (or other forms of packaging) to ensure that they are recycled or re-used;
- any provisions on retailers to use deposits that are not reclaimed by consumers in a specified way and to account for these moneys which might be available to local authorities who, in practice, have to meet the costs associated with collection and treatment of unreturned containers;
- enforcement provisions; and
- proportionate penalties or civil sanctions for non-compliance by retailers.

If powers to make regulations were enacted in the Scottish Climate Change Bill, the Scottish Government would consider establishing a working group before any regulations were drafted. This would include key parties such as retailers, convenience stores, the glass and plastics industry, the drinks industry, SEPA and local authorities.

Alternatives

The basic alternative to a statutory deposit and return scheme is to continue and strengthen the current arrangements for collecting drinks containers for recycling. This would not however stop manufacturers and retailers jointly introducing voluntary deposit and return schemes, including “reverse vending”, if they so wish.

If a statutory deposit return scheme were introduced, there would be room to consider how wide its scope should be.

Questions

Consultees are asked:

1. Do you consider that legislation should be made in this area?
2. If so, what form should that legislation take?
3. Your views on the practicalities of such schemes in Scotland?

PROPOSAL 6: MANDATORY WASTE DATA RETURNS FROM BUSINESS

Proposal

To ensure more effective planning and policy making on commercial and industrial waste by taking powers to make regulations requiring businesses to send waste data returns to SEPA.

Background

Under the EU Waste Statistics Regulation, EU Member States are required to send waste data returns to the European Commission. In any event, it is generally agreed that good and reliable waste data is needed, for two main reasons:

- To inform the private sector when it is seeking to invest in waste infrastructure as part of the move away from landfill; and
- To inform policy-makers.

Local authorities already send data to SEPA on municipal waste. In addition, SEPA collect data from businesses by way of surveys. These surveys of businesses are voluntary and returns tend to be low. (The 2004 survey achieved a return rate of 16.9%, representing coverage of 1.7% of all companies in Scotland, and the 2006 survey achieved a return rate of 10.8%, representing 2.3% of all businesses). As part of their Waste Data Strategy, SEPA are also considering how best to use data they may obtain from other sources, such as regulatory returns. In addition, SEPA are considering if they can obtain data information from other sources in the private and public sectors.

How the proposal would work

The Scottish Government would be given a power to make regulations requiring businesses (perhaps with a turnover above a fixed amount) to report on the amounts of waste they produce on a periodic basis (probably annually) to SEPA. The regulations would:

- Set out exemptions from the duty;
- Specify the nature of the information required, the time periods involved and the frequency with which the information needs to be supplied;
- Give powers to SEPA to make arrangements for the collection of the data and to provide advice and guidance to businesses.

Alternatives

SEPA could continue to carry out voluntary surveys, and supplement these with data from other sources (e.g. regulatory returns).

Questions

Consultees are asked:

1. Do you consider that legislation should be made in this area?
2. If so, what form should that legislation take?
3. Do you have any views on the kind of businesses to be covered?

PROPOSAL 7: OTHER MEASURES TO ENCOURAGE WASTE PREVENTION, INCLUDING ACTION ON SINGLE-USE CARRIER BAGS

Proposal

The Scottish Government would also welcome other ideas on legislation which could help to prevent waste.

Background

General points

The Scottish Government is committed to waste prevention. In many cases, work can be carried out in these areas without legislation. In other areas, such as banning certain materials from going to landfill, Ministers already have the power to make the necessary regulations.

However, the Scottish Government would be grateful for any views on areas where taking new powers to prevent waste might be helpful.

There is already debate in this area. There are moves at EU level to do more on Sustainable Consumption and Production: ec.europa.eu/environment/eussd/escp_en.htm

Carrier bags

Carrier bags have been a significant issue in recent years. The United Kingdom Government have now tabled amendments to the UK Climate Change Bill, which would give Ministers the power to require retailers to charge for carrier bags. This is a devolved matter and the Scottish Government has concluded that action in this area is best on a Scottish basis.

The Scottish Government is of the view that significant reductions in single-use carrier bags generally (i.e. all single-use carrier bags and not just bags made from plastic) can be achieved through voluntary measures. The Scottish Government met retailers on 15 May 2008 and it was agreed that a Zero Waste Retailers Group should be set up. This Group will consider various options to cut bag use on a voluntary basis.

However, the Scottish Climate Change Bill gives an opportunity for the Scottish Ministers to take enabling powers so that regulations could be made to reduce the use of single-use carrier bags, if voluntary measures should not succeed.

Questions

Consultees are asked:

1. Do you consider that legislation should be made in this area?
2. If so, which areas should these powers cover?
3. Are there any other areas, not covered by this consultation, where legislation could be made to increase recycling and promote waste prevention?

Annex A – List of Consultees

Local Authorities

The Convention of Scottish Local Authorities

Aberdeen City
Aberdeenshire
Angus
Argyll and Bute
Clackmannanshire
Dumfries and Galloway
Dundee
East Ayrshire
East Dunbartonshire
East Lothian
East Renfrewshire
Edinburgh City
Eilean Siar
Falkirk
Fife
Glasgow
Highland
Inverclyde
Midlothian
Moray
North Ayrshire
North Lanarkshire
Orkney
Perth and Kinross
Renfrewshire
Scottish Borders
Shetland
South Ayrshire
South Lanarkshire
Stirling
West Dunbartonshire
West Lothian

Public Bodies

Audit Scotland
Department for Environment, Food and Rural Affairs
Department of the Environment Northern Ireland
Department for Business, Enterprise and Regulatory Reform
Environment Agency
Environment and Heritage Service
Equality and Human Rights Commission
European Commission
Food Standards Agency
Highlands and Islands Enterprise
Irish Environmental Protection Agency
Northern Ireland Executive
Office of Fair Trading
Scottish Environment Protection Agency
Scottish Enterprise
Scottish Natural Heritage
Welsh Assembly Government

Retail Sector

Scottish Retailers Consortium
Scottish Grocers Federation

Aldi
Asda
Boots
Co-Operative
Debenhams
Home Retail Group
Iceland
John Lewis
Lidl
Marks & Spencer
Morrisons
Musgrave Budgens Londis
Next
Nisa-Todays
Primark
Sainsbury's
Somerfield
Tesco
TK Maxx
Waitrose

Political Parties

Margo MacDonald MSP
Scottish Conservative and Unionist Party
Scottish Green Party
Scottish Labour Party
Scottish Liberal Democrats
Scottish National Party

Professional Institutes

Chartered Institute of Marketing
Chartered Institute of Purchasing and Supply
Chartered Institution of Wastes Management
Institute of Direct Marketing
Institute of Directors
Trading Standards Institute

Waste Management

Association for Organics Recycling
Caledonian Environment Centre
Community Composting Network
Community Recycling Network for Scotland
Confederation of Paper Industries
Envirowise
National Industrial Symbiosis Programme
Remade
Scottish Environmental Services Association
Waste and Resources Action Programme
Waste Aware Scotland.
WWF Scotland
Zero Waste Think Tank Members

Business Associations

Association of Charity Shops
British Soft Drinks Association
Confederation of British Industry Scotland
Federation of Small Businesses
Forum of Private Business
Scottish Chambers of Commerce
Scottish Food and Drinks Federation

Other Interested Bodies

Alliance for Beverage Cartons and the Environment
British Packaging Association
British Standards Institute
Carrier Bag Consortium
Carbon Trust
Design Council
Energy Saving Trust Scotland
Friends of the Earth Scotland
Green Alliance
Industry Council for Packaging and the Environment
Local Government Association
Market Transformation Programme
National Farmers Union (Scotland)
National Packaging Council
Packaging and Films Association (PAFA)
Packaging Federation
Royal Mail
Scotch Whisky Association
Scottish Civic Forum
Scottish Council for Development and Industry
Scottish Council for Voluntary Organisations
Scottish Water
Smith Anderson Group
Society of Independent Brewers Association
Sustainable Development Commission
WHICH
Wine and Spirit Trade Association

ANNEX B

EXISTING WASTE LEGISLATION

TOPIC / PURPOSE	EUROPEAN LEGISLATION	SCOTTISH TRANSPOSITION
<p>1. Waste Regulation – System of Licensing to minimise negative effects on the environment</p>	<p>Waste Framework Directive Hazardous Waste Directive Waste Shipment Regulation Integrated Pollution Prevention & Control Directive</p>	<p>Environmental Protection Act 1990 Waste Management Licensing Regulations 1994 Special Waste Regulations 1996. Pollution Prevention & Control (Scotland) Regulations 2000 Transfrontier Shipment of Waste Regulations 2007</p>
<p>2. Producer Responsibility – Arrangements to require producers and distributors to be responsible for recycling and recovery of specified wastes</p>	<p>Packaging & Packaging waste Directive Waste Electronic & Electrical Equipment Directive Batteries Directive</p>	<p>Packaging (Essential Requirements) Regulations 2003 Producer Responsibility Obligations (Packaging Waste) Regulations 2005 Waste Electrical & Electronic Equipment Regulations 2006 Waste Management Licensing Regulations 1994 Batteries Regulations 2008 [to be made]</p>
<p>3. Waste Incineration – Control over burning of waste</p>	<p>Waste Incineration Directive</p>	<p>Pollution Prevention & Control (Scotland) Regulations 2000 Waste Incineration (Scotland) Regulations 2003</p>
<p>4. Landfill – Landfill standards and control over waste sent to landfill, (including landfill reduction targets and landfill bans)</p>	<p>Landfill Directive</p>	<p>Pollution Prevention & Control (Scotland) Regulations 2000 Waste & Emissions Trading Act 2003 Landfill Allowances Scheme (Scotland) Regulations 2005</p>
<p>5. Waste Planning – Requirements to have a National Waste Plan</p>	<p>Waste Framework Directive</p>	<p>National Waste Management Plan for Scotland Regulations 2007</p>
<p>6. Duties & Powers for Scottish Local Authorities - Duty on Local Authorities to collect and dispose of waste, powers to charge for certain types of waste</p>	<p>Waste Framework Directive</p>	<p>Landfill (Scotland) Regulations 2003 Environmental Protection Act 1990</p>

ANNEX C: LIST OF WASTE DELIVERY BODIES

Under the Environmental Protection Act 1990, and other legislation, local authorities have statutory responsibilities in relation to the collection and disposal of household waste. Local authorities are also under a duty to collect commercial waste, if requested to do so.

Under the Environment Act 1995, and other legislation, the Scottish Environment Protection Agency (SEPA) are given a number of responsibilities in relation to environmental regulation, including the enforcement of regulations on waste.

There are also a number of non-statutory bodies who provide support to the Scottish Government and others in relation to the implementation of the National Waste Plan. A list of the main bodies and of their functions is shown below.

The **Waste and Resources Action Programme (WRAP)** develop markets for recycled products; provide advice and some financial support to the recycling and composting industry; do work on waste prevention in areas such as retail and home composting; and administer INCREASE, the grant scheme for community recycling. www.wrapscotland.org.uk

The **Scottish Waste Awareness Group (SWAG)**, part of Keep Scotland Beautiful, co-ordinate the Waste Aware Scotland campaign which provides advice to householders on reduce, re-using and recycling their waste. www.wasteawareScotland.org.uk

REMADE Scotland develops markets for recycled products and provides advice to local authorities on recycling. www.remade.org.uk

Envirowise provides advice to business on reducing the unnecessary use of raw materials and on waste prevention. www.envirowise.gov.uk/scotland

The **National Industrial Symbiosis Programme (NISP)** facilitates and helps businesses to change the way they think of waste and help them become more efficient with the disposal of waste resources. www.nisp.org.uk

ANNEX D: PARTIAL REGULATORY IMPACT ASSESSMENT

1. Potential legislative measures to implement Zero Waste

This partial Regulatory Impact Assessment relates to 7 proposed legislative measures to implement Zero Waste in Scotland. The proposed measures are:

Number 1: Duties on public bodies and businesses to provide recycling facilities for customers and staff. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Number 2: Targets on retailers in relation to packaging reduction and a requirement on retailers to provide information on the amount of packaging used. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Number 3: Duties on public bodies and businesses to specify a minimum percentage of material made from recycle in procurement contracts. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Number 4: Duties on public bodies and businesses to have plans to prevent waste. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Number 5: The introduction of deposit and return systems for drinks containers and other forms of packaging. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Number 6: A requirement on businesses to send returns to the Scottish Environment Protection Agency on the amount of waste they produce. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Number 7: Other measures to encourage waste prevention, including action on carrier bags.

2. Purposes and intended effect

Objectives

2.1 The purpose of the proposed measures is to support work on combating climate change by reducing the amount of waste produced in the first place, encouraging re-use, encouraging recycling, reducing the amount sent to landfill and ensuring that better information is obtained on the amount of commercial and industrial waste that is produced in the first place.

Timescales

2.2 In all cases, regulations will be required to implement the proposals. There will be full consultation on these regulations. Given this, the Scottish Government expects that the earliest any of the regulations could be in force would be one year after the Climate Change Bill receives Royal Assent. In some cases, such as deposit and return, a full implementation

group might be needed to consider the matter in detail and regulations could take up to 5 years.

Background

2.3 On municipal waste, Scotland has to meet its share of the EU Landfill Directive targets for reducing the amount of biodegradable municipal waste sent to landfill. There are no such targets in place at the moment in relation to commercial and industrial waste. However, the forthcoming Waste Framework Directive will lay down some targets on recycling construction and demolition waste. Work on reducing the amount sent to landfill is also in line with work to reduce Greenhouse Gas emissions, as waste in landfill emits methane.

2.4 The Scottish Government is preparing a new National Waste Management Plan for Scotland, to outline the policies to move Scotland towards Zero Waste. The existing policy levers in place to reduce the amount of waste sent to landfill include:

- Work on reducing the unnecessary use of raw materials and on waste prevention, including advice to business and householders, statutory and voluntary work on packaging, work on unwanted mail, work to encourage longer-life products and the re-use of products, the existing voluntary agreement to reduce the environmental impact of carrier bags by 25%, the food waste prevention campaign and home and community composting.
- Work by local authorities to improve and enhance recycling facilities and provide information to the public on these facilities. Discussions are on-going with the Convention of Scottish Local Authorities (CoSLA) about how best to allocate much of the resources from the Zero Waste Fund. In line with the Concordat between the Scottish Government and CoSLA, local authorities have also produced Strategic Outcome Agreement on services in their areas.
- On-going work to develop markets for recycled products.
- The UK Government's Landfill Tax, which is on an escalator and is a fiscal incentive to send less material to landfill.
- Producer responsibility for certain materials, such as packaging, Waste Electrical and Electronic Equipment (WEEE) and end of life vehicles. Producer responsibility is also being introduced for batteries.

Rationale for government intervention

2.5 If the proposals outlined in this consultation paper are not enacted, the Scottish Government expects that the amount of waste sent to landfill will continue to fall as some of the policy levers outlined above, such as Landfill Tax and improved recycling facilities for householders continue to have an impact. However, if some or all of the measures are proposed in this consultation paper are enacted, the Scottish Government considers that the amount of waste sent to landfill would fall at a faster rate, and that the overall amount of waste recycled would be greater, thus helping to reduce Greenhouse Gas emissions. The precise impact would depend on the measures implemented.

3. Consultation

- 3.1. The Cabinet Secretary for Rural Affairs and the Environment has consulted with other Ministers in the Scottish Government.
- 3.2. This partial RIA forms part of a wider public consultation.

4. Options

Number 1: Duties on public bodies and businesses to provide recycling facilities for customers and staff. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Option 1 is to implement the proposal. This would increase the amount of recyclate collected from public places. The risk is that requiring public facilities by statute might fail to take account of local circumstances. This risk would be mitigated by wide consultation on the draft regulations.

Option 2 is to rely on a voluntary Code of Practice. This would increase the amount of recyclate collected from public places. The risk is that a Code of Practice might be ignored. This risk could be mitigated by encouragement by Government, the public and staff to provide recycling facilities.

Option 3 is to implement the proposal in relation to public bodies. This would increase the amount of recyclate collected from public places. The risk is that practices would diverge between the private and public sectors.

Option 4 is to do nothing. The risk is that improvements in recycling facilities in public places would happen in a haphazard and random fashion. Increases in Landfill Tax may mitigate this risk as recycling will become a more attractive economic proposition than sending material to landfill.

There are other various options here, such as just imposing duties in relation to providing recycling facilities for staff or, alternatively, in relation to customers.

Number 2: Targets on retailers in relation to packaging reduction and a requirement on retailers to provide information on the amount of packaging used. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Option 1 is to implement the proposal and reduce the amount of packaging. The risk is that it might be difficult to lay down statutory targets on retailers in relation to packaging, given that retailers, in the normal course of business, change how they operate. This risk would be mitigated by full consultation on the regulations and could be mitigated by applying reduction targets to individual outlets of retailers, rather than retailers as a whole.

Option 2 is to take no statutory action. The risk is that voluntary work might have less of an impact than statutory requirements. This risk could be mitigated by ensuring that non-statutory commitments have challenging targets on packaging reduction.

Number 3: Duties on public bodies and businesses to specify a minimum percentage of material made from recycle in procurement contracts. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Option 1 is to implement the proposal. The risk is that laying down requirements in statute might fail to take account of local circumstances (eg local shortages of products containing recycle or a specific need to use certain materials to ensure buildings are in keeping with the local area). This risk could be mitigated by full consultation on the regulations and by laying down in the regulations would not apply when there are exceptional circumstances.

Option 2 is not to implement the proposal and to continue to rely on voluntary ways of encouraging public bodies and businesses to specify recycle in contracts. The risk here is that specifying recycle could happen in a piece-meal and fragmented way. This risk can be mitigated by providing further advice on specifying recycle.

Option 3 is to implement the proposal in relation to public bodies only. The risk here is that there might be a divergence in practice between the private and public sectors. This risk can be mitigated by providing further advice to the private sector on specifying recycle.

Number 4: Duties on public bodies and businesses to have plans to prevent waste. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Option 1 is to require waste prevention plans generally. The risk here is that businesses and public bodies may be uncertain on what steps to take. This risk could be mitigated by providing advice.

Option 2 is to implement Site Waste Management Plans only, as in England. The risk here is that we may be missing other steps to reduce waste, recycle more and save costs (eg on operational waste, not just construction waste). This risk could be mitigated by providing advice on waste prevention plans generally and using construction procurement as a way of reducing waste.

Option 3 is to not to implement the proposal and rely on voluntary measures, as at present. The risk here is that voluntary measures may have less of an impact than statutory requirements. This risk could be mitigated by providing advice on measures that can be taken, including advice on how waste prevention can save businesses money.

Option 4 is to implement the proposal in respect of the public sector only. The risk is that this could lead to a divergence of practice between the public and the private sectors. This risk could be mitigated by providing advice to the private sector on measures that can be taken.

Number 5: The introduction of deposit and return systems for drinks containers and other forms of packaging. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Option 1 is to implement the proposals for drink containers only. The risk here is that statutory deposit and return would be difficult to implement from scratch. This risk could

be mitigated by setting up an implementation group, and by being realistic about timetables for implementation.

Option 2 is to implement the proposals for drink containers and for other forms of packaging. The risk here is that this would take even longer to implement. This risk could be mitigated by taking a staged approach to implementation, starting with the easier materials.

Option 3 is to not to implement the proposals and to rely on existing measures to increase the recycling of drink containers and other forms of packaging. The risk is that these may not be as effective as deposit and return. This risk could be mitigated by targeted information campaigns at householders and businesses.

Number 6: A requirement on businesses to send returns to the Scottish Environment Protection Agency on the amount of waste they produce. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Option 1 is to implement the proposals. The risk here is that they might be burdensome on businesses. This could be mitigated by only applying the requirement to larger businesses.

Option 2 is not to implement the proposals. The risk here is that the response to voluntary surveys is low. This could be mitigated by using other sources to gather data, such as regulatory returns and surveys commissioned by bodies other than SEPA.

Number 7: Other measures to encourage waste prevention, including action on carrier bags. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Option 1 is to take powers to require retailers to charge for single use carrier bags, as the United Kingdom Government is proposing for the UK Climate Change Bill. One risk is that charging for bags would not necessarily change consumers' behaviour on waste prevention more generally. This risk could be mitigated by providing information to consumers on waste prevention generally. There would be full consultation on any regulations on charging for bags.

Option 2 is not to implement the proposals. The Scottish Government has set up a working group with retailers which is looking specifically on how to reduce the number of single-use carrier bags that are issued.

5. Costs and benefits

Number 1: Duties on public bodies and businesses to provide recycling facilities for customers and staff. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

This would impact on businesses and public sector bodies.

The requirement would need to be enforced by local authorities. There would be some modest administrative costs for local authorities, as a result.

The new duty would have no overall cost impact so far as providing recycling facilities for staff are concerned. This is because any duty would not come into effect until 2010 at the earliest (after the passage of the Climate Change Bill and after consulting and making regulations). In 2010/11, Landfill Tax (at the Standard Rate) will be £48 per tonne. It is likely, therefore, that the costs to business of using a recycling service will be along the same lines as the costs of using a landfill service although, clearly, circumstances will vary from business to business depending on location and waste streams produced. When providing new recycling facilities for staff, businesses could also promote messages on waste prevention and reducing the unnecessary use of raw materials which would reduce costs to business.

DEFRA consulted last year on the introduction of more public place recycling in England on a voluntary basis. The DEFRA consultation included cost/benefits analyses: www.defra.gov.uk/corporate/consult/recyclebins/consultation.pdf In particular, this considered that one-off annual costs for England could be £1.1 million to £3.3 million and average annual costs, excluding one-off, would be £0.3 million to £0.9 million. These costs include the purchase, installation and servicing costs of the recycling facilities. This suggests that for Scotland one-off annual costs related to the introduction of more recycling facilities for customers could be around £200,000 and on-going annual costs could be around £600,000.

Overall, the benefits are increased recycling. A summary of the estimated carbon benefits of diverting waste materials from landfill can be found at Chart 4.1 of DEFRA's Waste Strategy for England 2007: www.defra.gov.uk/environment/waste/strategy/strategy07/pdf/waste07-strategy.pdf

Number 2: Targets on retailers in relation to packaging reduction and a requirement on retailers to provide information on the amount of packaging used. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

This would impact on retailers.

The regulations would need to be enforced by local authorities and there would be a modest administrative cost for them.

There would be no costs to retailers in relation to this proposal. Any administrative costs in keeping records, sending in returns and providing information to customers would be outweighed by the cost and resource efficiencies in relation to using less packaging. These cost and resource efficiencies would be achieved by:

- Using lower amounts of raw materials.
- Using less energy in the manufacturing process.
- Efficiencies in transportation.
- Efficiencies in use of shelf space in store.

Number 3: Duties on public bodies and businesses to specify a minimum percentage of material made from recyclate in procurement contracts. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

The Scottish Government considers that in construction projects a requirement for recycled content, if correctly stated, should result in no impact on overall material costs and entail minimal effort on the part of project teams. This is because:

- Higher recycled content products are mostly ‘mainstream’ construction products. These are by their nature cost competitive (otherwise they would not be widely used) and are readily available.
- On any project, most of the opportunity to increase recycled content typically lies in the top 5 to 15 options (e.g. blockwork, concrete, tiles, etc) for that project. As a result, it is not necessary to try to review large numbers of product options to make a major difference to the overall recycled content of a project.
- Where it is possible to reuse site, or locally sourced, demolition wastes as bulk aggregate, this will contribute towards a recycled content requirement while also reducing cost (i.e. costs of buying and transporting primary aggregates and / or the costs of disposing of site waste).

The Waste and Resources Action Programme (WRAP) have detailed guidance, available free of charge, on specifying recycle and also have case studies.

WRAP commissioned BRE to assess the difference in environmental performance that results from using greater levels of recycled material at no extra cost in construction projects. For those product categories where sufficient data exists for conclusions to be drawn:

- On average, adopting higher recycled content reduces overall environmental impact in each product category; and
- Higher recycled content may or may not reduce carbon impacts. In the case of aggregates the key factor is to ensure that recycled aggregates are sourced more locally than the quarried aggregates they replace, or are processed using energy efficient equipment.

Number 4: Duties on public bodies and businesses to have plans to prevent waste. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

This would have cost benefits to business.

Envirowise Scotland estimate that wasting water, raw materials and utilities costs on average 4% of turnover.

The costs associated with preparing a Site Waste Management Plan should be outweighed by the benefits, so long as the project is sufficiently large to justify a Plan. In addition, the cost benefits can be increased if the need to reduce waste and treat the wastes that do arise in a sustainable way are taking account of when the building is designed and when any contracts are let to construct the building.

Detailed information on the costs and benefits of Site Waste Management Plans as implemented in England can be found in: DEFRA’s cost benefit analysis: www.defra.gov.uk/environment/waste/topics/construction/pdf/swmp-cost-benefits.pdf

Number 5: The introduction of deposit and return systems for drinks containers and other forms of packaging. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

A statutory deposit and return system is in operation in Denmark.

Denmark has a population of around 5.5 million, which is about 10% greater than Scotland's population of 5 million.

Information on the costs of the Danish scheme can be found at www.dansk-retursystem.dk/content/us/about_dansk_retursystem/finances

This suggests that in 2006:

Logistics fees (covering administrative overheads, handling fees and efficiency improvements in stores) were around 96 million Danish Krone.

Collection fees (covering the costs of collecting and counting containers for recycling) were around 66 million Danish Krone.

This gives a total of 162 million Danish Krone

There are around 9.5 Danish Krone to a £.

This suggests that the Danish system costs around £17 million a year to run.

Although the Scottish population is lower, our collection costs may be higher as we have a large number of rural areas and islands. Therefore, **it may be reasonable to assume that a deposit and return scheme in Scotland would cost around £17 million a year.**

In Norway, there is a refundable deposit system for cans and non-refillable plastic bottles. More information can be found at: www.resirk.no/graphics/Resirk/Aarsrapporter/Resirk_aarsmelding_2006.pdf

The key costs identified in Norway for 2006 are:

Administration fee:	15 million Krone
Handling fee:	57 million Krone
Transport costs:	42 million Krone
Other operating costs:	9 million Krone
Administration, marketing and depreciation:	49 million Krone
Total:	172 million Krone

There are around 10 Norwegian Krone to a £ and the population of Norway, at 4.6 million, is similar to the population of Scotland. This again suggests that the cost of deposit and return scheme in Scotland would be around £17 million a year.

The benefits of a deposit and return scheme are that it would increase the level of recycling of the containers covered.

Number 6. A requirement on businesses to send returns to the Scottish Environment Protection Agency on the amount of waste they produce. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

There are around 265,435 private sector businesses in Scotland:
www.scotland.gov.uk/Topics/Statistics/18389/Key

If it cost each business £20 to prepare and submit the return, this would suggest **a total cost to business of £5,308,700.**

Certain small businesses, generating small amounts of waste, might be exempt from the need to supply a return. That would reduce costs. Against that, some larger businesses would have to record waste from a number of outlets and that would increase costs.

The benefits of the proposal are that it would improve commercial and industrial waste data. This would assist the private sector when it comes to making decisions on infrastructure to treat waste and divert it from landfill. It would also help policy-makers when considering what policy instruments to put in place to encourage the diversion of waste from landfill.

Number 7: Other measures to encourage sustainable products, including action on carrier bags.

The previous Scottish Executive produced a Regulatory Impact Assessment on the Member's Bill on plastic bags. This RIA was based in part on a study by AEA Technology for the Executive. The RIA can be found at www.scottish.parliament.uk/business/committees/environment/papers-05/rap05-28.pdf#page=20

Summary of costs and benefits

Proposal	Financial costs/benefits	Environmental benefits
1. Duty to provide recycling facilities for customers and staff	No significant additional cost in relation to customers as costs of waste collection will rise in any event, due to the UK Government's Landfill Tax One-off annual costs related to the introduction of more recycling facilities for customers could be around £200,000 and on-going annual costs could be around £600,000	Increased recycling in public places
2. Targets on retailers on packaging reduction	Cost savings to retailers	Waste prevention
3. Specifying recycle	No significant costs	Helps markets for recycling

		Reduces need for extraction of raw materials
4. Waste prevention plans	Cost savings to business	Waste prevention
5. Deposit and return	Could cost around £17 million a year	Increases recycling levels for drinks containers
6. Waste data returns	Could cost business around £5.3 million a year	Provides greater certainty for private sector investors seeking to invest in infrastructure to divert waste from landfill
7. Other measures	Depends on the measures taken	Depends on the measures taken

6. Small/Micro Firms Impact Test

Proposal 1 on providing recycling facilities for staff and customers, could impact disproportionately on small companies, who might have less space for recycling facilities. There may be a need for a de minimis exemption from any implementing regulations for small firms.

Proposal 2 on targets on retailers on packaging reduction, would be aimed at larger retailers generating more packaging. There may be a need for a de minimis exemption from any implementing regulations for small firms.

Proposal 3 on specifying recycle would be aimed at larger contracts. There may be a need for a de minimis exemption from any implementing regulations for smaller contracts.

Proposal 4 on waste prevention plans would be aimed at larger businesses and public sector bodies. It is generally accepted that Site Waste Management Plans only have a positive impact when projects are above a certain size. Any implementing regulations would need to reflect the need to avoid imposing unnecessary burdens in relation to smaller bodies and smaller projects.

Proposal 5 on deposit and return could impact on all businesses selling drinks to the public in containers covered by a deposit and return scheme. This could impact disproportionately on smaller businesses, who may have less space to store returned containers and who may find it time-consuming to keep records on returned containers. As indicated in the consultation paper, the Scottish Government would consider setting up an implementation group before any regulations are made to consider all of the implications of introducing a deposit and return scheme.

Proposal 6 on waste data returns to SEPA could impact on all businesses in Scotland producing waste. There may be a case for any implementing regulations having a de minimis exemption for small companies generating low amounts of waste.

The impact of proposal 7 on other measures depends on what other measures are implemented.

7. **Legal Aid Impact Test**

We would not expect these proposals to lead to significant additional demands in relation to the Legal Aid budget.

8. **“Test Run” of Business Forms**

No new forms are being created at this stage. There will be full consultation before any new forms are created and finalised.

9. **Competition Assessment**

Number 1: Duties on public bodies and businesses to provide recycling facilities for customers and staff. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

The provision of recycling facilities may be a small (added) attraction for customers and staff, but that is unlikely to give rise to competition issues. Smaller outlets may need to be exempt from any requirements given their lack of space for major recycling facilities.

Number 2: Targets on retailers in relation to packaging reduction and a requirement on retailers to provide information on the amount of packaging used. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

It would be for retailers themselves to reach their own views on how to meet any targets. Smaller stores may be exempt because they generate less waste.

Number 3: Duties on public bodies and businesses to specify a minimum percentage of material made from recycle in procurement contracts. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

There are a large number of mainstream products made from, or containing, recycle on the market, so this proposal does not favour specific products. The European Commission are clear that specifying environmental objectives in contracts is compatible with EU procurement law, so long as the objectives are specified from the outset, giving all potential contractors the opportunity to meet the objectives. The Scottish Government would avoid setting too high a percentage requirement for recycled content in relation to construction contracts and would set a requirement at project-level, not on individual product categories, to ensure that there was no conflict with the EU Construction Products Directive, which guarantees free movement of construction products across the EU.

Number 4: Duties on public bodies and businesses to have plans to prevent waste. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

No obvious competition issues. The introduction of more detailed Site Waste Management Plans in Scotland when compared with England (eg taking account of design and contract management) might improve the competitiveness of Scottish business when compared with England.

Number 5: The introduction of deposit and return systems for drinks containers and other forms of packaging. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

There could be competition issues here. In particular, the Scottish Government would need to ensure that there was no discrimination against products from other Member States of the EU. There may also be particular issues about smaller stores and the impact the proposal could have on them. We would also need to ensure that there was a level playing field between different types of receptacles.

Number 6. A requirement on businesses to send returns to the Scottish Environment Protection Agency on the amount of waste they produce. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

The introduction of this requirement might help increase fair competition as all potential developers of waste management plants would have better data, in the public domain, on wastes arising and existing treatment methods.

Number 7. Other measures.

Any competition impact depends on the precise measures taken.

10. Enforcement, sanctions and monitoring

Number 1: Duties on public bodies and businesses to provide recycling facilities for customers and staff. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

It is likely that this requirement would be enforced by local authorities. Local authorities would be most likely to act after receiving a complaint from a customer or member of staff about lack of recycling facilities. Success would be measured by the number of recycling facilities available; increases in recycling and decreases in the amount of waste sent to landfill.

Number 2: Targets on retailers in relation to packaging reduction and a requirement on retailers to provide information on the amount of packaging used. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

The requirement would be enforced by the Scottish Environment Protection Agency or local authorities. The Waste and Resources Action Programme (WRAP) can provide technical advice to retailers. Success would be measured by reductions in packaging.

Number 3: Duties on public bodies and businesses to specify a minimum percentage of material made from recycle in procurement contracts. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

The Waste and Resources Action Programme can provide technical advice in this area. In relation to public bodies audited by Audit Scotland, we would expect Audit Scotland to report on any breaches of the requirements. For other bodies, we would expect that local authorities would be given an enforcement role (eg as part of any mechanism used to spot

check Site Waste Management Plans), although we would not expect there to be regular enforcement action. Success of the policy would be measured in an increase in the specification of recycled material and a decrease in the use of raw materials, with consequent environmental benefits.

Number 4: Duties on public bodies and businesses to have plans to prevent waste. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

Envirowise and the Waste and Resources Action Programme can provide technical advice in this area. In relation to public bodies audited by Audit Scotland, we would expect Audit Scotland to report on any breaches of the requirements. For other bodies, we would expect that local authorities would be given an enforcement role, although we would not expect there to be regular enforcement action. SEPA may also have a role in relation to Site Waste Management Plans. Success of the policy would be measured by decreases in the amount of waste produced, with consequent environmental benefits.

Number 5: The introduction of deposit and return systems for drinks containers and other forms of packaging. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

We expect this would be enforced by the Scottish Environment Protection Agency. There would be criminal offences in relation to such matters as not charging the deposit. Success of the policy would be measured by increases in the recycling rates for drink containers and other forms of packaging, with consequent environmental benefits.

Number 6. A requirement on businesses to send returns to the Scottish Environment Protection Agency on the amount of waste they produce. The exact requirements would be laid down in regulations, which would be the subject of a full consultation.

This would be enforced by the Scottish Environment Protection Agency. There might be civil penalties for non-compliance. Success of the policy would be measured by increased accuracy of data on commercial and industrial waste in Scotland.

Number 7. Other measures.

Enforcement would depend on the precise measures taken.

ANNEX E – RESPONDING TO THE CONSULTATION

Responding to this consultation paper

We are inviting written responses to this consultation paper by 3 October 2008.

Please send your response to:

zerowaste@scotland.gsi.gov.uk

or

Waste Strategy Team
1-J North
Victoria Quay
Edinburgh
EH6 6QQ

We would be grateful if you would use the consultation questionnaire provided or could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at www.scotland.gov.uk/consultations. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.

The Scottish Government now has an email alert system for consultations: www.scotland.gov.uk/consultations This system allows individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). SGconsult complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the Respondent Information Form as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

The Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public (see the attached Respondent Information Form), these will be made available to the public in the Scottish Government Library and if applicable on the Scottish Government consultation web page. We will check all responses where agreement to publish has been given for any potentially defamatory material before logging them in the library or placing them on the website. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

We will conduct an analysis of the responses received to this consultation.

We will make all respondents' details available to the public in accordance with their expressed wishes (see Respondent Information Form, Annex F).

Thereafter, the Scottish Government will consider what provisions on waste should be included in the Scottish Climate Change Bill.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

Name: Martin Macdonald

Address: Waste Strategy Team, Scottish Government, Victoria Quay, Edinburgh EH6 6QQ

E-mail: martin.macdonald@scotland.gsi.gov.uk

ANNEX F

RESPONDENT INFORMATION FORM: POTENTIAL LEGISLATIVE MEASURES TO IMPLEMENT ZERO WASTE

Please complete the details below and return it with your response. This will help ensure we handle your response appropriately. Thank you for your help.

Name:

Postal Address:

1. Are you responding: (please tick one box)

(a) as an individual go to Q2a/b and then Q4

(b) **on behalf of** a group/organisation go to Q3 and then Q4

INDIVIDUALS

2a. Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government website)?

Yes (go to 2b below)

No, not at all We will treat your response as confidential

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

ON BEHALF OF GROUPS OR ORGANISATIONS:

3 The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government website). Are you also content for your **response** to be made available?

Yes

No We will treat your response as confidential

SHARING RESPONSES/FUTURE ENGAGEMENT

4 We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Government to contact you again in the future in relation to this consultation response?

Yes

No

ANNEX G

THE SCOTTISH GOVERNMENT CONSULTATION PROCESS

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (e.g. analysis of response reports) can be accessed at: www.scotland.gov.uk/consultations

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.