

Developing Scotland's circular economy

Proposals for Legislation

November 2019

Ministerial Foreword

The Scottish Government has long recognised the benefits of a circular economy approach. In 2016, we launched 'Making Things Last', which laid the foundations for action and set out a bold vision for building a circular society in Scotland.

We have set some of the most ambitious targets in Europe driving circularity, aiming to reduce food waste by 33 per cent and to recycle 70 per cent of waste by 2025. Our circular initiatives are helping to stimulate progress internationally and, as a result, Scotland was chosen to host last year's Circular Economy Hotspot, a major international trade event.

The circular economy represents an enormous economic and industrial opportunity for Scotland, as set out in our Economic and Manufacturing Action Plans. Transforming our economic system to one which regenerates and restores the Earth's ecosystems rather than one which exploits them has become more urgent because of the climate emergency. It is estimated that four-fifths of Scotland's global climate emissions are linked to the production, consumption and waste of products and resources.

This consultation document contains our proposals for a circular economy bill, setting a framework for taking action into the future. In our current world, there is no excuse not to take action now if we can. This document therefore also covers proposals where we can use existing powers to act more swiftly through secondary legislation. We have also set out the wide range of other legislative and non-legislative activity that is in progress or is planned.

Scotland has always been an innovator. Responding to the climate emergency will be a challenge and is a national endeavour requiring a concerted effort from all of us, be it government, business or individuals. I believe that the transition to a circular economy will be an important contribution to that endeavour.

I would strongly encourage everyone with an interest in our proposals to respond to this consultation. I wish in advance to thank you for taking the time to do so.



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Cabinet Secretary for Environment,
Climate Change and Land Reform

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Responding to this consultation

We are inviting responses to this consultation by 19 December 2019.

Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.gov.scot/environment-forestry/circular-economy-proposals-for-legislation/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 19 December 2019.

If you are unable to respond online, please complete the Respondent Information Form (see 'Handling your Response' below) to:

circulareconomy@gov.scot

Or

Circular Economy Unit
Environmental Quality and Circular Economy Division
3H South
Victoria Quay
Edinburgh
EH6 6QQ

Handling your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that 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, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence. Responses will be published where we have been given permission to do so.

Comments and complaints

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

circulareconomy@gov.scot

Or

Circular Economy Unit
Environmental Quality and Circular Economy Division
3H South
Victoria Quay
Edinburgh
EH6 6QQ

Questions can also be directed to Mark Cook at 0131 528 5536.

Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision-making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. 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; and
- be used to finalise legislation before it is implemented.

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.

Introduction

What is a circular economy?

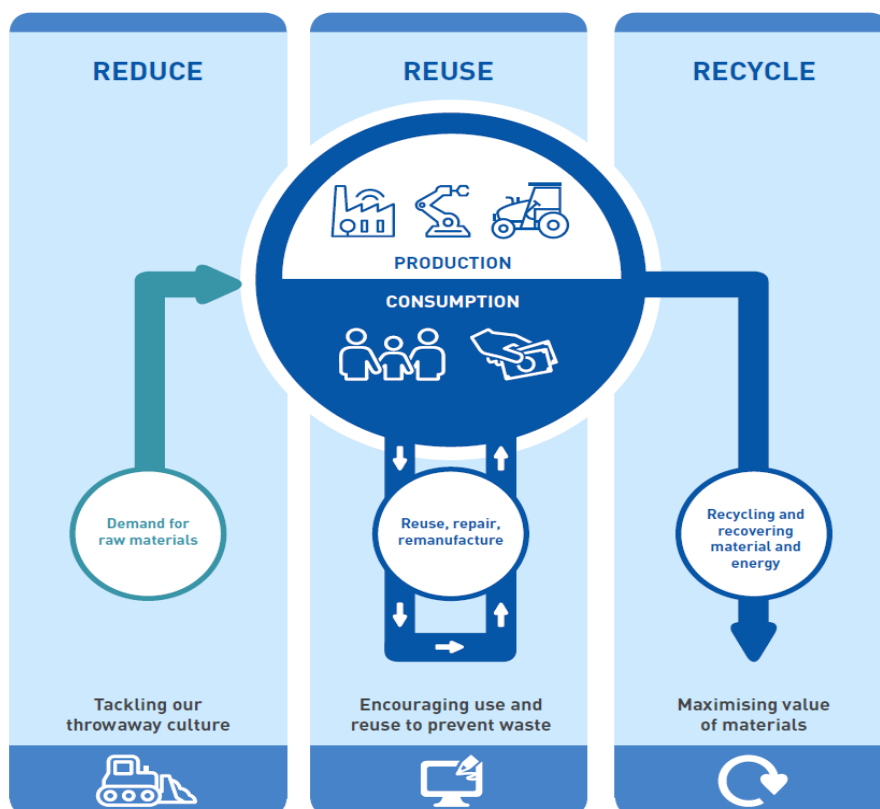
A traditional “take, make and dispose” linear economy involves *taking* resources from the ground, air and water; *making* them into products and structures; then *disposing* of them.

A circular economy is an alternative approach to this, in which resources are kept in use for as long as possible, the maximum value is extracted from them whilst in use and then products and materials are recovered and regenerated at the end of each product’s viable life cycle.

A more circular economy can benefit: the environment, by cutting waste and carbon emissions; the economy, by improving productivity and opening up new markets; and communities, by providing local employment opportunities and lower cost options to access the goods we need.

One simple way to express the concept of a circular economy is that it is designed to **reduce** the demand for raw materials in products; to encourage **reuse**, repair and manufacture by designing and selling products and materials to last as long as possible; and to **recycle** waste and energy to maximise the value of any waste that is generated (figure 1). The policy proposals for the circular economy bill are set out in the following chapters under these ‘reduce, reuse and recycle’ themes.

Figure 1: a circular economy approach to production and consumption (source: Zero Waste Scotland)



Another way to describe this is the ‘waste hierarchy’, which describes the order of preferences for action to reduce and manage waste (figure 2). This sets out the optimal use for materials, starting with prevention (an alternative term for ‘reducing’ the use of materials), moving to reuse and then recycling, including energy and material recovery. It is only when we have exhausted all of the other alternatives that disposal through landfill should be used. A circular economy should always endeavour to keep materials in use as high up the waste hierarchy and for as long as possible.

Figure 2: the waste hierarchy (*source: Scottish Government*)



Circular economy objectives

The Scottish Government’s circular economy objectives can be summarised as:

- Reducing waste;
- Reducing litter;
- Reducing carbon and resource footprint;
- Increasing recycling rates and quality of recycle; and
- Maximising economic opportunities.

Our work directly links to the UN Sustainable Development Goal 12: Ensure sustainable consumption and production patterns. Creating sustainable growth is a key part of the Scottish Government’s Purpose and the circular economy particularly contributes to the Environment and Economy outcomes under the National Performance Framework. Progress is measured through the carbon footprint and waste generated indicators.¹

Progress

Circular economy policy in Scotland was set out in ‘Making Things Last’ (2016), one of the first national circular economy strategies in the world.² This was recognised by the World Economic Forum where Scotland was awarded a ‘Circulars’ award for Cities and Governments in 2017. Policy is underpinned by key principles, which include:

¹ <https://nationalperformance.gov.scot/>.

² <https://www.gov.scot/publications/making-things-last-circular-economy-strategy-scotland/>.

- Applying the waste hierarchy – prevention and promoting reuse is paramount;
- ‘Polluter pays’ – those who produce pollution should bear the costs of managing it to prevent damage to the environment or human health;
- Proportionality – Government intervention or regulation should only happen when necessary; and
- A sound evidence base and assessment of effectiveness.

Implementation of the approach is measured through a series of ambitious targets, as set out in figure 3.

Figure 3: Scottish Government targets

Recycling	- 60% of <i>household</i> waste to be recycled /composted and prepared for re-use by 2020 - 70% of <i>all</i> waste to be recycled / composted and prepared for re-use by 2025
Food waste	- reduce all food waste arising by 33% against the 2013 baseline by 2025
Waste prevention	- reduce waste arising by 15% against the 2011 baseline by 2025
Landfill	- no more than 5% of <i>all</i> waste going to landfill by 2025 - no <i>biodegradable municipal</i> waste going to landfill by 2025

We are making progress on meeting these targets. For example, the most recent statistics show that:³

- Scotland continues to exceed EU requirements in the amount of biodegradable municipal waste landfilled – levels fell by 6% to 1.02 million tonnes in 2018, compared to an EU requirement of 1.26 million tonnes by 2020;
- the carbon impact of household waste generated and managed has decreased by 15% from 2011 to 2018 – equating to a reduction of more than one million tonnes of carbon dioxide equivalent; and
- the percentage of waste from all sources recycled or composted in 2017 was 59.2%.

Other achievements include:

- Support for more consistent household recycling collections across Scotland through the Scottish Household Recycling Charter and its code of practice, agreed jointly with the Convention of Scottish Local Authorities.⁴

³ <http://media.sepa.org.uk/media-releases/2019/official-statistics-publication-for-scotland-household-waste-summary-waste-landfilled-waste-incinerated-jan-dec-2018.aspx> for 2018 statistics on household waste and waste sent to landfill; <https://www.environment.gov.scot/data/data-analysis/waste-from-all-sources/> for 2017 statistics on waste from all sources recycled or composted.

⁴ <https://www.zerowastescotland.org.uk/content/charter-household-recycling>.

- A sector-based approach to tackling food waste, set out in the recently published Food Waste Reduction Action Plan.⁵
- Building on the introduction of the single-use carrier bag charge in 2014, further action to tackle consumer demand for a throwaway culture and reduce waste more quickly, including banning plastic cotton buds and microbeads.
- Through Zero Waste Scotland's Circular Economy Investment Fund and business support services, investment of £5.8 million in domestic projects⁶ and support to 164 businesses to develop circular economy products or services. Co-funded by European Regional Development funding, these projects have identified projected benefits of 66,000 tonnes CO₂, 262 jobs and attracted £7 million investment from other parties.
- A cities and regions approach to the transition towards a circular economy and zero waste society through Zero Waste Towns and Circular Cities and Regions initiatives. These local initiatives are important pilot projects that allow testing of different approaches through community networks.

While we have already made important progress against the ambitions set out in 'Making Things Last', we recognise that there is more to do.

Key Challenges

Most of the climate impacts linked to products and materials occur in the production and consumption phase of the lifecycle. Preventing waste will therefore have the biggest impacts on our environment. Whilst we have reduced waste arising by 4.3% since 2011, we need to reduce this by a further 1.3 million tonnes compared with 2017 to meet our target of 15% reduction by 2025.

In terms of climate impact, food waste sent to landfill is particularly problematic as it releases methane, a greenhouse gas many times more potent than carbon dioxide.

Trends in the global fashion industry are also having a significant impact: WRAP's 'Valuing Our Clothes' report stated that, across the EU and UK, clothing is the eighth largest sector in terms of household spending and is ranked fourth in terms of its impact on the environment. Clothing contributes around five per cent of the carbon footprint and six to eight per cent of the water footprint of all the UK's goods and services. It also accounts for more than 1 million tonnes of wasted materials each year.⁷

Around 13% of Scotland's waste is currently processed outside Scotland.⁸ This represents a lost economic opportunity. As we work to change the way we use and reuse materials, we need to stimulate the development of reprocessing infrastructure within Scotland to deal with future waste and materials as close to source as possible.

⁵ <https://www.gov.scot/publications/food-waste-reduction-action-plan/>.

⁶ Correct as of August 2019.

⁷ http://www.wrap.org.uk/sites/files/wrap/valuing-our-clothes-the-cost-of-uk-fashion_WRAP.pdf.

⁸ Based on waste managed 'Outwith Scotland' data for 2017, in the 'Management' section of <https://www.environment.gov.scot/data/data-analysis/waste-from-all-sources/>.

Whilst recycling rates have increased over time, with 59.2% of all waste being recycled in 2017, household recycling rates (44.7% in 2018) need to improve. A valuable recycling system is not only about the volume we are collecting, it is increasingly about the quality and the value of the materials we are collecting for recycling.

Finally, waste crime is estimated to cost over £500 million each year to the UK economy.⁹ Criminal activity within the resource management industry undermines investment by legitimate operators in the valuable sorting and reprocessing infrastructure we need.

⁹ Environmental Services Association Education Trust, "Waste Crime: Tackling Britain's Dirty Secret" (2014), Table E1 (http://www.esauk.org/application/files/4515/3589/6453/ESAET_Waste_Crime_Tackling_Britains_Dirty_Secret_LIVE.pdf).

Current and future activity

Circular economy and waste policy is a complex landscape, with Scottish, UK, European and global dimensions to consider. The system for production of our products and materials involves supply chains that span the globe. Similarly, when we have used and consumed products and materials the waste and resource management system often has a global chain of custody.

Given this complexity, it is important to consider both legislative and non-legislative measures that will help us achieve our goals. We are working with the European Commission, UK Government and other devolved nations on measures, including legislation, that will give new impetus to circular economy businesses and a modern, effective and efficient resource management system. These sit alongside our own ambitious plans, where we are taking forward measures in partnership with our agencies and stakeholders.

Our intention is to use the circular economy bill to bring forward measures that require primary legislation, recognising that these are complemented by the other legislative and non-legislative activities summarised below and set out in more detail in the rest of this document. Figure 4 shows the timeline of expected deliverables over the next six years, to 2025.

(i) Scottish Government initiatives

We are already taking steps to implement a **Deposit Return Scheme** for single-use drinks containers, covering a wide range of materials and aiming for a 90% return rate. The scheme will improve recycling rates, tackle littering, encourage wider behaviour change towards materials and stimulate investment in high quality sorting and reprocessing.¹⁰

Following its recent recommendations on single-use disposable beverage cups, the Expert Panel on Environmental Charges and Other Measures (**EPECOM**) will be considering further measures in relation to other single-use items.¹¹

Our **Food Waste Reduction Action Plan** (FWRAP)¹² makes clear what measures we believe are required to achieve our ambitious food waste reduction target of 33% by 2025. The FWRAP is designed to engage with every part of our food supply chain, to reduce unnecessary demand and avoidable waste and to optimise how we use our organic resources, including by promoting research and innovation in emerging bio-technologies.

In line with FWRAP, we will consult later this year on additional food waste measures in more detail. These include:

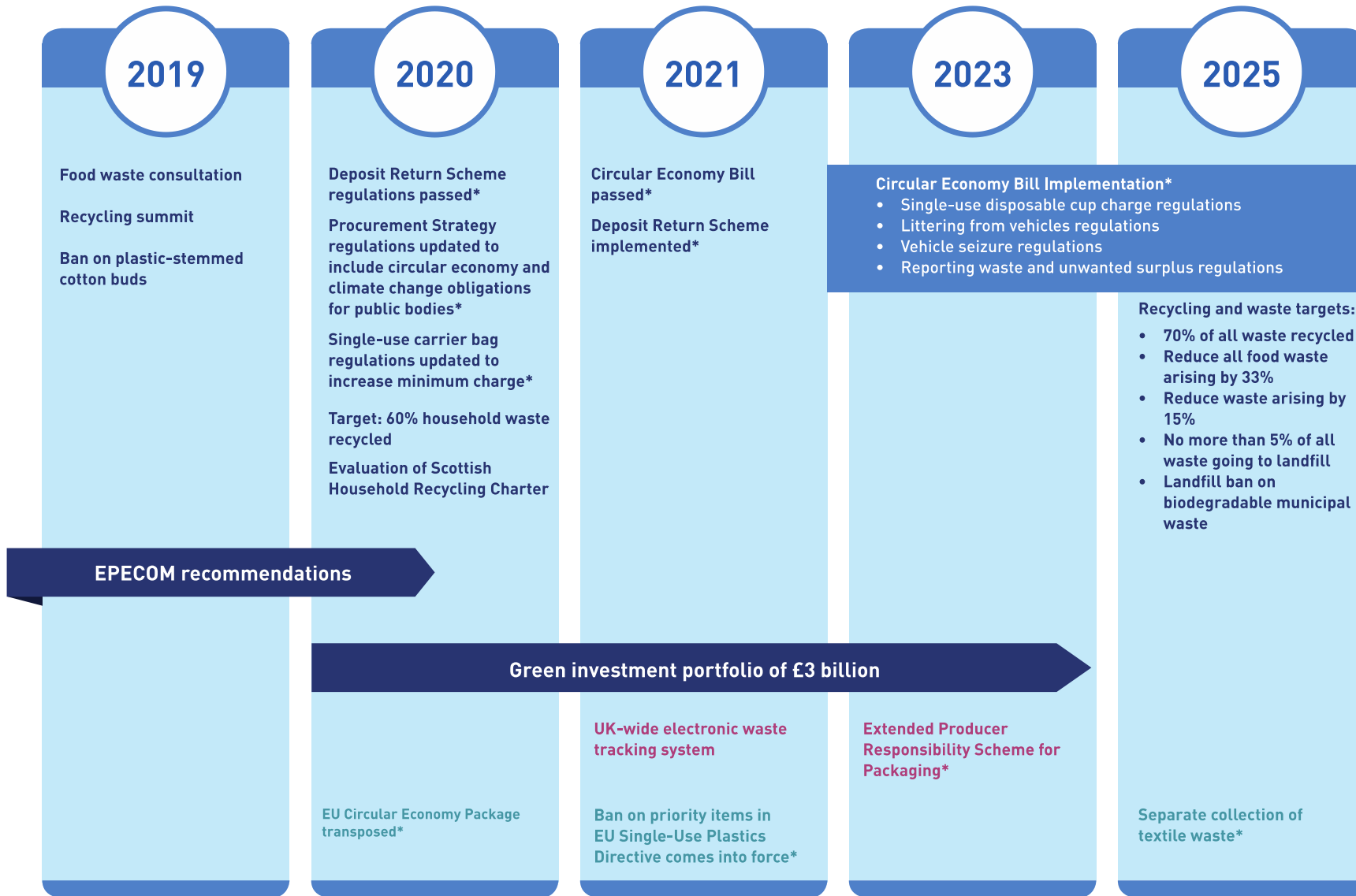
- Reviewing the current rural exemption and food waste separation requirements for food waste collections;

¹⁰ <https://depositreturnscheme.zerowastescotland.org.uk/>.

¹¹ <https://www.gov.scot/groups/expert-panel-on-environmental-charging-and-other-measures/>.

¹² <https://www.gov.scot/publications/food-waste-reduction-action-plan/>.

Figure 4: Expected deliverables to 2025



KEY:

- Scottish Government initiatives
- UK-wide initiatives*
- Alignment with European legislation

*Subject to consultation and/or passage of legislation

- A potential obligation for food retail sites, over a certain size, to redistribute edible products in line with the food waste hierarchy; and
- A mandatory national food waste reduction target.

As part of our move to a net zero emissions economy, we have announced a **Green Investment Portfolio**. This portfolio will seek out and help structure major projects in the circular economy, as well as in sectors such as renewables, transport and property, that both require private sector investment and can deliver environmental benefits. The Scottish Government will present these projects internationally in 2020 and at investor gatherings, with the intention of reaching a pipeline of £3 billion worth of investable projects in three years.¹³

The goal to embed **circular economy skills** and thinking in the future workforce will form a key part of the Scottish Government's new manufacturing programme, Making Scotland's Future. It will also shape the training, leadership and skills development programmes offered by the National Manufacturing Institute Scotland's Manufacturing Skills Academy.

(ii) UK-wide initiatives

We are founding signatories of the **UK Plastics Pact**, led by WRAP, a collaborative initiative that seeks to create a circular economy for plastics. It brings together businesses from across the entire plastics value chain with UK governments and NGOs behind a common vision and ambitious set of targets, including 100 per cent of plastic packaging to be recyclable or compostable by 2025.¹⁴

There are common producer responsibility schemes across the nations of the UK covering packaging, electrical and electronic equipment, batteries and end of life vehicles.¹⁵ We are working jointly with the UK, Welsh and Northern Irish Governments on reform of packaging regulations through a **revised extended producer responsibility scheme (EPR)**, which will make producers liable to pay the full cost of dealing with packaging waste while stimulating investment in collection, sorting and reprocessing.¹⁶ Enabling powers were included in the UK Environment Bill introduced to the UK Parliament on 15 October 2019, with the revised scheme intended to be in place by 2023.

Also included in the Environment Bill were enabling powers to allow for:

- minimum resource-efficiency standards for products and information and labelling requirements;
- electronic waste tracking;
- food waste targets; and
- food surplus redistribution.¹⁷

¹³ <https://www.gov.scot/publications/scotlands-green-investment-portfolio-call-projects/>.

¹⁴ <http://www.wrap.org.uk/content/the-uk-plastics-pact>.

¹⁵ <https://www.gov.uk/government/collections/producer-responsibility-regulations>.

¹⁶ <https://www.gov.uk/government/consultations/packaging-waste-changing-the-uk-producer-responsibility-system-for-packaging-waste>.

¹⁷ <https://services.parliament.uk/Bills/2019-20/environment.html>.

This Bill has now fallen with the dissolution of the Westminster Parliament.

Pending clarity on the legislative programme of the incoming UK Government, we will continue to work with the other UK administrations on EPR and other areas of common interest to ensure that any proposals meet our ambitions in Scotland, whilst fully respecting the devolution settlement.

(iii) Alignment with European legislation

The **Single-use Plastics Directive** (SUP) was published in June 2019 and was created in response to the evidence of harmful plastic litter in oceans and seas growing ever greater. The Directive includes proposals to target the 10 single-use plastic products most often found on Europe's beaches and seas, as well as lost and abandoned fishing gear. The plastic products include:

- cutlery;
- plates;
- straws;
- stirrers for beverages;
- balloon sticks;
- food and beverage containers and cups made of expanded polystyrene;
- products made from oxo degradable plastic; and
- cotton bud sticks (which we have already banned).

We fully support the EU vision of phasing-out single-use plastics wherever possible and have committed to keeping pace with the deadline set out in the Directive. In 2020, we will consult on a proposed legislative approach to ban or restrict the sale of the SUP's priority plastic items by 2021. We will take into account equality interests and apply exemptions where appropriate.

Implementing these SUP changes will align with the requirements set out in the EU **Circular Economy Package**, which came into force in July 2018. Member States have until July 2020 to transpose the package and bring into force the laws, regulations and provisions necessary to comply with the requirements. The package includes measures for amendments to six European Directives on the handling of waste, two of which (Waste and Landfill) will require amendments to Scottish legislation. We intend to bring forward a consultation on how best to transpose these requirements into Scottish law before July 2020.

1. Reduce: tackling our throwaway culture

We believe that building an economic system that moves away from being based on items that are designed to be disposable will yield the biggest environmental impacts. We have been taking forward initiatives to create more choices for consumers and businesses to operate in a way that does not rely on a “take-make-dispose” model.

This approach includes the intention to ban or restrict the sale of the priority plastic items set out in the EU’s Single-use Plastics Directive, as described in the ‘current and future activity’ section in the introduction above.

In addition to banning certain items, we also want to attach a value to goods previously seen as disposable, as a means of engaging the public and helping them to understand their responsibility as citizens.

One example of this is the introduction of a five pence minimum charge for single-use carrier bags in 2014, which is estimated to have reduced single-use carrier bag use by 80% within a year of introduction. We are now proposing to increase the minimum charge to ten pence through secondary legislation: further detail about this can be found in chapter 6 of this consultation document.

In May 2018, we formed the Expert Panel on Environmental Charging and Other Measures (EPECOM) to provide expert advice on measures that may be adopted in Scotland, with the goal of encouraging long-term and sustainable changes in consumer and producer behaviour required to move towards a circular economy.

EPECOM presented its first report in July 2019, setting out recommendations to tackle the dependence on, and environmental impact of, single-use disposable beverage cups in Scotland.¹⁸ The Panel noted evidence that a charge is more effective than a discount in changing behaviour and increasing reusable cup use, and considered that a mandatory charge on a national level would be most effective in levelling the playing field for retailers and ensure consistent messages to consumers.

¹⁸ The EPECOM report and the Scottish Government’s response is available at <https://www.gov.scot/publications/report-expert-panel-environmental-charging-measures-recommendations-single-use-disposable-beverage-cups-scottish-government-response/>.

Case study: Crosshouse Hospital cup trial

Zero Waste Scotland and NHS Scotland worked together to implement a £0.10 charge on single-use disposable beverage cups at University Crosshouse Hospital in Ayrshire, reducing the price of hot drinks by £0.10 to ensure cost neutrality. Plastic-lined paper cups and polystyrene soup cups were replaced with 100% polypropylene cups, which could be recycled within the existing waste system, and Crosshouse staff were provided with free, reusable and 100% recyclable cups. In addition to paying £0.10 less for their drinks, staff using any reusable cup also obtained a stamp towards a free 10th drink. Reusable cup use increased from 1% pre-trial to 43% during the trial, while the recycle rate increased from 0% (the previous cups being unrecyclable) to 75%. Staff survey results showed strong support for making trial conditions permanent across NHS Scotland sites and for more retailers implementing cup charges.

EPECOM will continue to work on recommending further measures for the government to consider in tackling our throwaway society. A holistic approach is likely to focus on a range of measures that recognises that complex problems need complex and diverse solutions. We are aware that we must consider equalities interests and the full life cycle impact of any item when developing future policy in relation to single-use items, in order to prevent any unintended consequences.

Also relevant to tackling single-use items are our litter and marine litter strategies, which set out our approach to tackling land-based causes of litter and preventing litter getting into our seas.¹⁹ In 2018, we updated the Code of Practice on Litter and Refuse (CoPLAR), which sets out the responsibilities on public bodies to keep their land and roads clear of litter and refuse.²⁰ We are now taking further steps to reduce littering by proposing a new penalty for littering from vehicles: further detail about this can be found in chapter 4 of this consultation.

Proposal

Environmental charging for items such as single-use disposable beverage cups

Informed by EPECOM's recommendations and the impact of the single-use carrier bag charge, **we are proposing to include within the circular economy bill a power to enable Scottish Ministers to introduce charges on the provision of items, such as single-use disposable items, that are harmful to the environment, that can be replaced with sustainable alternatives or are problematic to recycle.**

¹⁹ <https://www.gov.scot/publications/towards-litter-free-scotland-strategic-approach-higher-quality-local-environments/>; <https://www.gov.scot/publications/marine-litter-strategy-scotland/>.
²⁰ <https://www.gov.scot/publications/code-practice-litter-refuse-scotland-2018/>.

We recognise that single-use disposable beverage cups, which create 4,000 tonnes of waste in Scotland each year, are of particular concern and are the focus of the recent EPECOM report. The Panel noted evidence which forecasts that consumption of single-use disposable beverage cups in Scotland will rise over the coming years. **It is therefore our intention to introduce the secondary legislation to implement the charge on the provision of these type of cups as soon as possible after the circular economy bill has received Royal Assent.**

We are also interested to understand views about other items to which a charge might be applied in the future.

Questions

Please note that there is a general question at the end of the consultation where you can provide further information, if required.

1. Do you agree in principle that Scottish Ministers should have the power to set charges for environmentally harmful items, for example single-use disposable beverage cups?

- A) Yes
- B) No
- C) Neither agree nor disagree

2. Do you agree with the proposal to prioritise introduction of charges for single-use disposable beverage cups?

- A) Yes
- B) No
- C) Neither agree nor disagree

3. Are there any others items that these new powers for environmental charging should be applied to in the future?

- A) Yes
- B) No
- C) Don't know

If yes, please specify:

2. Reuse: encouraging use and reuse to prevent waste

Making products that last and products that can have more than one life will change our economic model to one that is less dependent on raw materials. We are taking measures across different sectors, which consider the full life cycle for products and materials, from production through to consumption and ultimately what is wasted.

Public sector investment from Zero Waste Scotland (ZWS) and the enterprise agencies is providing support to a diverse and thriving network of businesses, particularly SMEs, and is raising awareness and capabilities around design innovation for the circular economy.²¹

Case study: EGG Lighting²²

EGG Lighting has received funding from ZWS's Circular Economy Investment Fund and was awarded the Best Circular Economy Initiative prize at the 2019 Scottish Resources conference. Based in Glasgow, EGG provides 'lighting as a service' to businesses. Customers pay to receive an energy efficient lighting service rather than owning the fitting and bulbs. This enables customers to access the latest LED technology at an affordable cost. EGG has an ongoing relationship with its customers and can offer advice on money-saving measures based on analysis of the business needs.

Case study: Revive²³

Revive is a Glasgow-based start-up that has also been supported through ZWS's Circular Economy Investment Fund. It aims to divert all used coffee grounds (UCGs) away from landfill, and to extract maximum value from this material. Revive collects UCGs from across Scotland and uses innovative technology to extract ingredients that can then be used in a range of cosmetic, food, drink, pharmaceutical and household products. Selling these ingredients presents manufacturers with a sustainable, circular option.

We are committed to voluntary actions as a signatory of the Ellen Macarthur Foundation New Plastics Economy global commitment to end plastic pollution and the UK Plastics Pact launched by WRAP.²⁴ These voluntary commitments are driving collaborations between businesses, governments, innovators, NGOs and citizens to build a plastics system that works.

We recognise the importance of embedding circular economy practices within procurement procedures. Zero Waste Scotland is involved in a CircPro project with eleven partners across Europe, who are working together to scale up the development of circular business models, products and services such as take-back, buy and sell on and leasing.

²¹ <https://ceaccelerator.zerowastescotland.org.uk/>.

²² <https://www.zerowastescotland.org.uk/case-study/egg-lighting>.

²³ <https://revive-eco.com/>.

²⁴ <https://www.newplasticseconomy.org/>; <http://www.wrap.org.uk/content/the-uk-plastics-pact>.

We are putting forward a secondary legislation proposal in chapter 6 about including circular economy obligations within the procurement strategies for Scottish public bodies.

The 'Revolve' quality standard has also been created to give shoppers the assurance of the quality of the second-hand goods they purchase. One hundred and fifty stores in Scotland have been certified with this re-use quality standard.

To help us target further activity that will encourage use and reuse to prevent waste, we have identified two proposals to consider for inclusion in the circular economy bill.

Proposals

(i) Mandatory reporting of waste and unwanted surplus

Waste operators already have an obligation under Duty of Care to report movements of waste.²⁵

To prevent and reduce waste effectively, we need to improve our monitoring, measurement and reporting of waste across all sectors. We need to have a clear idea about the type and quantities of waste so that we can target measures effectively.

The waste data strategy for Scotland (2017) commits us to working with others to develop and deliver electronic systems to capture waste data.²⁶ We are working closely with the UK Government, the Northern Ireland Executive and the Welsh Government to develop a UK-wide electronic tracking system for waste through the GovTech Smart Waste Tracking Challenge project. The new system is expected to be in place by the end of 2021 and will be a rich source of new data on waste production and management in Scotland.

However, increased attention on how we deal with unwanted surplus products in Scotland, in particular in the food and textile supply chains, has highlighted a data gap. We are also keen to make sure that, in key sectors, there is public transparency on unwanted surplus stock and waste management.

To this end, we are considering introducing public reporting requirements on waste and unwanted surplus stocks of certain types of material that is or may be destined to become waste.

Our proposal is that the circular economy bill will bring forward a power to enable Scottish Ministers to require mandatory public reporting of unwanted surplus stock and waste of certain materials by Scottish businesses. Our intention is that the initial priority for subsequent secondary legislation, with further consultation, would be to introduce reporting on food waste and food surplus. We are also keen to explore the scope to apply this requirement to textiles and potentially other waste streams.

²⁵ <https://www2.gov.scot/resource/0040/00404095.pdf>.

²⁶ <https://www.environment.gov.scot/media/1902/a-strategy-for-improving-waste-data-in-scotland-october-2017.pdf>.

We are inviting views on the general enabling power; on the initial priority of food; and about other material streams, such as textiles, to which a requirement could potentially apply in the future. The following sections explore these issues in more detail.

Reporting by businesses on food waste and surplus²⁷

At a European level, food waste prevention is an integral part of the EU Action Plan for the Circular Economy. The Revised EU Waste Legislation calls on EU countries to reduce food waste at each stage of the food supply chain, to monitor food waste levels, and to report on their progress.²⁸ The European Commission is developing a common EU methodology to measure food waste consistently. A key goal of the Commission is to reduce food waste without compromising on food safety.

Scotland's Food Waste Reduction Action Plan confirmed that to act on food waste, we need to improve our monitoring, measurement and reporting of food waste across all sectors, reflecting the Plan's 'target, measure, act' approach. Although food waste monitoring and measurement methods have developed considerably over recent years, there are still considerable gaps in our knowledge which we need to address, so that we can accurately monitor our progress and proactively target sectors that need enhanced support or action.

The two largest sector sources of food waste in Scotland are Household & Consumer (61%) and Food & Drink Manufacturing (25%). There continues to be some uncertainty about the food waste generated by Hospitality & Catering, Wholesale & Retail, Education, and Healthcare sectors.

Our main aim is to prevent food waste. However, some waste is unavoidable or inedible (for example, eggshells or peelings/stalks), and we treat this as a resource with value that can be used within a circular economy and supported by other actions from Scotland's circular economy strategy. Enhanced monitoring and public reporting will help to find resources and develop relevant networks that will ultimately divert suitable materials from the total food waste stream to other uses, in line with the food waste hierarchy.

Reporting by businesses on other waste and unwanted surplus stock, such as textiles / clothing

As well as food, we are also keen to explore the scope to apply this requirement to other waste streams, particularly textiles and clothing because of public interest in 'fast fashion'.

²⁷ For the purposes of the consultation, the definition of 'food waste' and 'food surplus' are the same as those described in WRAP's food waste reduction roadmap toolkit

(http://www.wrap.org.uk/sites/files/wrap/food-waste-reduction-roadmap-toolkit_0_0.pdf).

²⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018L0851>.

In terms of textiles and clothing, we recognise that action is already being taken across the world to develop a more sustainable approach to the whole fashion industry and supply chain. The Pulse of the Fashion Industry report 2018 shows that fashion brands are increasingly interested in sustainability and environmental issues, particularly around the production of materials and garments.²⁹

In the UK, WRAP's Sustainable Clothing Action Plan (SCAP) is a collaborative framework and voluntary commitment to deliver industry-led targets for reducing the use of resources in the clothing industry. The SCAP covers the full process from resource efficient business models, consumer behaviour and sustainable clothing to re-use and recycling. Much of the focus on re-use and recycling is on post-consumer activity and developing better recycling processes. Clear reporting of the waste generated through production of garments when they are then unused or unsold would also help provide a focus for preventing waste by the industry.

(ii) Encouraging the reuse and redistribution of unwanted surplus stock, such as clothing and textiles

It is important that Scottish Ministers have the necessary powers to ensure that waste is dealt with as high up the waste hierarchy as is reasonably practical, and does not simply end up being landfilled or incinerated.

As with all waste holders, retailers and manufacturers are under an obligation to comply with the waste hierarchy under section 34 of the Environmental Protection Act 1990 and it is an offence not to do so. However, this is a general duty and more specific and direct duties to tackle retail waste (e.g. textiles/clothing) may be necessary.

As an illustration, the EU Circular Economy Package (CEP), through the EU Directive on waste (2018/851), introduces the requirement to collect textile waste separately for reuse or recycling from 1 January 2025. As there are already restrictions under Scots law on separately collected waste being landfilled or incinerated (unless it is incapable of being reused or recycled), once we have transposed the EU requirements, it will not be possible to use direct incineration or landfill as the primary means of managing waste clothing and textiles.

Although the CEP requirements will promote greater recycling of waste, within a circular economy model the ideal scenario would be to prevent unwanted surplus materials from entering the waste stream at all. We are therefore keen to encourage their reuse and redistribution. **For example, in 2018, France introduced proposals to ban retailers from throwing away unsold clothing. We would be interested to hear views on whether a similar approach in Scotland would be effective.**

²⁹ <https://www.globalfashionagenda.com/initiatives/pulse/>.

Questions

Please note that there is a general question at the end of the consultation where you can provide further information, if required.

4. To strengthen monitoring, measurement and reporting of waste across all sectors, do you agree with the principle that Scottish Ministers should have the power to require mandatory public reporting of:

I – business *waste*?

- A) Yes
- B) No
- C) Neither agree nor disagree

II – business *surplus*?

- A) Yes
- B) No
- C) Neither agree nor disagree

5. Do you agree with the proposal to prioritise introduction of mandatory public reporting for businesses of:

I – food *waste*?

- A) Yes
- B) No
- C) Neither agree nor disagree

II – food *surplus*?

- A) Yes
- B) No
- C) Neither agree nor disagree

6. Are there any other items, such as textiles and clothing, that mandatory reporting requirements on waste and surplus should be expanded to in the future?

- A) Yes
- B) No
- C) Don't know

If yes, please specify:

7. Do you have any suggestions on how to encourage the reuse and redistribution of unwanted surplus stock, such as clothing and textiles?

- A) Yes
- B) No
- C) Don't know

If yes, please specify:

3. Recycle: maximising value of materials

Making sure that, where waste occurs, Scotland is gaining the most value from this and that we are not exporting poor quality material is essential for our economy and our responsibility as a global citizen.

'Making Things Last' set out clear policy ambitions on recycling, notably for recycling to be routine in every business and household, with more consistent local services; more packaging designed for recyclability; and improved recycling rates, in collaboration with the waste and packaging industries. It also committed to examine how best to minimise contamination in household and commercial recycling to maximise both quality and value.

A number of measures are already in place or in train to support collection, sorting and reprocessing of materials to achieve the highest possible value from materials and meet Scottish Government targets on recycling and on reducing waste being sent to landfill.

Case study: Shetland Islands Council

Shetland Islands Council consistently had one of the lowest recycling rates in Scotland due to the absence of a kerbside recycling service, with material instead going to the energy from waste plant in Lerwick. In 2018/19 Zero Waste Scotland provided funding to support the introduction of a new kerbside recycling service, with provision for collection of paper and cardboard in one container and plastic bottles and metal cans in another containers. This brought the Islands in line with the Household Recycling Charter's supporting Code of Practice. Early indications show a good uptake of the new service with a high quality of material collected.

Scotland is committed to implementing a deposit return scheme for single-use drinks containers, with two of the main investment objectives being to improve the quantity and quality of recycling. The ambitious scheme is based on successful international equivalents and is designed to be widely accessible across Scotland.

Since 2013, Scotland's annual tonnage of biodegradable municipal waste landfilled has been below the EU-based target to reduce the quantity of biodegradable municipal waste disposed to landfill to less than 1.26 million tonnes by 2020.

Scotland remains the only country in the UK to have legislated to ban biodegradable municipal waste going to landfill. Significant progress has been made and further measures will be put in place to support full compliance by the revised target date of 2025.

Our Waste (Scotland) Regulations 2012 introduced requirements on all waste producers (except householders) to take all reasonable steps to present key recyclable wastes separately for collection; and a duty on all local authorities to provide a comprehensive recycling service to their householders.

In partnership with the Convention of Scottish Local Authorities (COSLA), we have created the voluntary Scottish Household Recycling Charter, which seeks to deliver more consistent recycling collections across Scotland. Thirty out of thirty-two councils have signed that Charter and, of these, over a quarter have services that are broadly aligned with the guidance provided in its supporting Code of Practice.³⁰

Although household recycling rates have improved significantly over time and we are recycling more than we send to landfill, we know that overall progress on recycling is not what it needs to be if we are to meet our recycling targets and secure the high quality recycle needed to attract reprocessing capacity to Scotland.

Contamination rates within household recycling collections remain higher than we would expect, meaning that some of the material collected is not being recycled. There is also local variation in household waste recycling performance and concerns have been raised that, given ongoing variation in approaches to recycling across Scotland, householders who want to recycle more are often confused about what can be recycled.

We intend to work in partnership with COSLA and local authorities to identify opportunities to support delivery and further enhance strategic approaches to waste and household recycling. By the end of 2019 we will host a recycling summit to bring together senior leaders across the public and private sectors to discuss ways to accelerate the pace of progress and ensure a more consistent, efficient and easier to understand approach to recycling.

Over the next year we will evaluate the Scottish Household Recycling Charter and review its supporting Code of Practice to ensure that it aligns with Scotland's forthcoming deposit return scheme, as well as taking stock of recent amendments to the EU waste directives.

This activity is closely connected to work being taken forward in partnership with the other governments of the UK to establish a reformed extended producer responsibility (EPR) scheme for packaging. As that scheme moves to recover 100% of the costs of dealing with packaging waste at end of life, it is expected to generate a substantial additional source of revenue. This, in turn, is likely to lead to significant changes in the funding model for local authority collection services, with funding provided via the EPR scheme for delivery of a specified model or outputs.

Proposal

Strengthening approach to household recycling collection services

For recycling to continue to be a Scottish success story, we need a step change in some aspects of how we collect and manage household recycling.

Within the context of the circular economy bill, we are considering the value of a move away from the voluntary approach to Scotland's Household Recycling Charter towards a more mandated approach, by enabling the Scottish

³⁰ <https://www.zerowastescotland.org.uk/content/charter-household-recycling>.

Ministers to place further requirements on local authorities regarding household collection services.

Requirements could include, for example, placing aspects of the Scottish Household Recycling Charter and its supporting Code of Practice on a statutory footing, specifying materials to be targeted for collection or mandating how they are collected. The purpose of any additional requirements would be to accelerate improvements to both the quality and quantity of recycling that local authorities are collecting in Scotland and the provision of more consistent collections. As noted above, the Scottish Government sees reforms to the Charter, and particularly any move to a mandatory system of collection, as closely linked to forthcoming changes in packaging EPR and the funding model.

Other countries are already achieving higher recycling rates. In Wales - which has one of the highest household recycling rates in the world at 61%³¹ - a range of policies have been put in place to drive up performance. This includes establishing a national target which every local authority is expected to meet, with financial penalties that can be applied if an authority does not meet required performance. These measures go significantly further than we have so far proposed in Scotland, and would need the support of local government to be a success. We will explore with COSLA and other partners whether there are opportunities to enhance incentives in this way as part of our work on reviewing the Charter and the impact of packaging EPR reforms.

Supporting high quality recycling is everybody's responsibility and it is important that we take all reasonable steps to ensure that householders can also play their full part.

The measures already described above to support more consistent approaches to household recycling are intended to ensure that householders are clearer about **what** they can recycle and **how** to do this.

There is evidence to suggest that rates of non-participation by householders in separating recyclable waste properly is high. There are no powers for local authorities to ensure that citizens are properly using their recycling containers or to prevent recycling being placed in non-recyclable containers.

Householders have some specific, albeit limited, obligations under the existing Duty of Care and its supporting Code of Practice to ensure that their waste is handled and stored safely and is only transferred to an appropriately-registered waste carrier.³²

More generally, Scotland's Household Recycling Charter commits to encouraging citizens to participate in recycling and reuse services to ensure they are fully utilised. Where citizens do not follow collection advice and policies, the Charter states that local authorities will ensure that their policies for communicating and taking corrective action are delivered consistently in line with the Code of Practice. In practice, this is limited to serving warning notices and working with citizens to

³¹ <https://gov.wales/sites/default/files/statistics-and-research/2019-01/181017-local-authority-municipal-waste-management-2017-18-en.pdf>.

³² <https://www.gov.scot/publications/duty-care-code-practice/>.

address contamination. In the most serious cases, a recycling service can be withdrawn if contamination within a recycling container is not addressed.

Given concerns highlighted above about the rate of progress on recycling and increased contamination of recyclate that is collected from householders, **we are keen to hear views, as part of this consultation, on whether householders' existing obligations are sufficient and if any further steps should be taken in Scotland to support, encourage or require householders to play their full part in improving both the quality and the quantity of materials provided for recycling.**

Questions

Please note that there is a general question at the end of the consultation where you can provide further information, if required.

8. Do you agree with the principle of enabling Scottish Ministers to place additional requirements on local authorities in order to increase rates and quality of household recycling?

- A) Yes
- B) No
- C) Neither agree nor disagree

If yes, what should these "additional requirements" be?

9. Do you agree with the principle of greater consistency in household recycling collections in different local authority areas?

- A) Yes
- B) No
- C) Neither agree nor disagree

10. Do you consider that we should move away from the current voluntary approach to Scotland's Household Recycling Charter towards a more mandated approach, whereby implementation of the Charter and its supporting Code of Practice becomes a statutory obligation?

- A) Yes
- B) No
- C) Don't know

11. Do you consider that householders' existing obligations are sufficient?

- A) Yes
- B) No
- C) Don't know

12. Are there any other measures that you consider Scottish Government should take to help accelerate the rate and quality of household recycling in Scotland, taking account of experience and approaches elsewhere and existing householder behaviours?

- A) Yes
- B) No
- C) Don't know

If yes, please specify:

4. Improving enforcement

The Scottish Environment Protection Agency (SEPA) is the environmental regulator in Scotland. Its “One Planet Prosperity – A Waste to Resources Framework”³³ outlines how it intends to drive down waste production and keep valuable materials circulating for as long as possible, whilst preventing and tackling the harms associated with waste management and waste crime. These guiding principles define SEPA’s approach to waste and resource management across all sectors of the economy.

SEPA is developing a sector plan for every environmentally regulated business. The sector plans will help drive business compliance with environmental regulations to create a level playing field and a platform to innovate. The plans also encourage businesses to go ‘beyond compliance’ and work collaboratively on a voluntary basis to reduce energy efficiency and the use of material and water resources.

SEPA has worked with businesses to support secondary material use, particularly in the food & drink, oil & gas, chemicals and construction sectors. Using a range of regulatory approaches, SEPA has supported the development of new fuels, fertilisers and construction products while ensuring a high level of environmental protection.

While Scotland must take all opportunities to use resources more sustainably, there are threats, not least from the vulnerability of the waste industry to criminal behaviours and infiltration by serious organised crime groups. Waste crime is a direct threat to the principles and ambitions of a circular economy and for our aspirations of becoming a resilient, resource efficient economy.

Measures have already been implemented to tackle waste crime. New fixed penalty powers granted to SEPA in 2015 are used, in a targeted way, to tackle low-level non-compliance with waste legislation. As part of broader campaigns, SEPA has used fixed monetary penalties in areas including food waste recycling, open burning, unlicensed waste carriers, incomplete special waste consignment notes and landfill data returns.

Since 2016, SEPA has responded to around 8,000 waste and resource management related environment incidents. The Scottish Government is committed to ensuring that SEPA has the necessary powers to enforce environmental law properly and to restrict those illegal waste activities that hinder and damage the rest of the waste industry in Scotland.

We have identified two improvements to enforcement that we intend to include in the proposals for the circular economy bill. The first is to address a gap in the powers available to enforcement authorities in relation to vehicle seizures linked to waste crime.

³³ <https://www.sepa.org.uk/media/219528/one-planet-prosperity-a-waste-to-resources-framework.pdf>.

The second is an enabling power to allow the Scottish Ministers to create a fixed penalty regime in relation to littering from vehicles, to help reduce the tonnes of litter that need to be cleared from our roads each month.

Both proposals will make the same powers available to SEPA and Scottish local authorities as are available to the enforcement authorities in England and Wales, ensuring that Scotland is not seen as a “soft option” when restrictions are tighter elsewhere in the UK.

Proposals

(i) Vehicle seizures in relation to waste crime

The vehicle seizure powers in Scotland are under Section 6 of the Control of Pollution (Amendment) Act 1989 (COPA 89).³⁴

In 2005, environmental regulators in England and Wales were given new and more flexible powers in relation to vehicle seizures in relation to waste crime. These amendments, and subsequent secondary legislation in 2015, enabled environmental regulators in England and Wales to seize vehicles in relation to contraventions of specified waste crime involving the use of a vehicle. For example, it is not necessary for them to obtain a warrant to seize a vehicle in relation to a specified waste crime involving a vehicle, provided certain conditions are met.

The Clean Neighbourhoods and Environment Act 2005 (which repealed Section 6 of COPA 89 for England and Wales only) enables enforcement authorities in England and Wales to seize vehicles for a wider range of suspected offences, if they have ‘reasonable grounds’ to believe or suspect that an offence has been committed and the vehicle was used in the commission of the offence.

The offences covered include:

- unauthorised or harmful depositing, treatment or disposal, etc. of waste;
- breaches in duty of care, as respects waste; and
- handling or storing waste without an environmental permit.

The 2005 Act also provides power for the courts to order the forfeiture of a vehicle used in the commission of an offence and for possession to revert to the relevant enforcement authority after a person is convicted of the offence.

Also introduced were the Control of Waste (Dealing with Seized Property) (England and Wales) Regulations 2015, which remove the requirement for the enforcement authority in England and Wales to obtain a warrant from a magistrate prior to seizing, if a vehicle is suspected to have been used in the commission of the above offences.³⁵

³⁴ <http://www.legislation.gov.uk/ukpga/1989/14/section/6>.

³⁵ <http://www.legislation.gov.uk/uksi/2015/426/contents/made>.

The legislation also sets out:

- what a seizure authority must do to ensure the safe custody and determine the rightful owner of any seized vehicle or other property;
- the circumstances in which the authority must return the property to its owner; and
- the circumstances in which it can sell, destroy or otherwise dispose of the property.

As part of this consultation, we are seeking views on whether, as part of overall efforts to minimise waste crime, enforcement authorities in Scotland should be given similar powers to seize vehicles linked to waste crime.

(ii) New penalty for littering from vehicles

The National Litter Strategy *Towards a litter-free Scotland* (2014) recognises the important role of enforcement alongside a focus on prevention in changing littering behaviours. Although progress has been made, there is recognition that the transition to prevention is ongoing and there are significant concerns about the volume of litter and its impact on terrestrial and marine environments and associated wildlife. Many littered items, if disposed of properly, can be recycled, contributing to our circular economy approach.

Clearing up litter is also a burden for the public sector and landowners. Approximately £1 million of public funds a week is spent clearing litter, funds that could be better used on other essential services. On Scotland's main road network, approximately 7 tonnes of litter is collected per month from the M8 and M9 alone. According to information from Keep Scotland Beautiful, in 2018-9 the presence of litter was recorded on around 86% of motorways and class A roads. This resonates with public attitudes relating to roadside litter: survey results from 2018 show 86% of respondents thought there is a problem with the amount of roadside litter in Scotland, and 91% thought litter creates a negative impression of Scotland.

Under the Environmental Protection Act 1990, littering is an offence in Scotland. This includes litter that is dropped from a vehicle. The current legislation requires the person leaving the litter to be identified before enforcement action can be taken. Feedback from litter authorities and key stakeholders suggests that this is often difficult to ascertain when the littering offence occurs in relation to a vehicle, creating a gap in current enforcement and weakening the deterrent power of the fixed penalty notice.

To strengthen the current enforcement regime, we are proposing a new enabling power that will allow a fixed penalty notice to be issued to the registered keeper of a vehicle when a littering offence has been committed from that vehicle. This will both increase the deterrent effect and the options available to enforcement officers in tackling roadside littering.

The proposed power will allow Scottish Ministers to introduce secondary legislation to implement a fixed penalty regime designed to complement existing offences, which can still be used where the person who dropped the litter can be identified. The intention behind this new power is to allow a vehicle's registered keeper to be issued with a fixed penalty notice when a litter authority has reason to believe that a littering offence has been committed from their vehicle, whether or not the litter was dropped/deposited by the registered keeper.

The introduction of this fixed penalty regime will bring Scotland into line with England and Wales where such a fixed penalty regime was introduced by the Anti-social Behaviour, Crime and Policing Act 2014 and subsequent regulations. It also delivers on the Scottish Government commitment made within the National Litter Strategy to look for a suitable opportunity to legislate to remove barriers to enforcement in littering from vehicles.

Questions

Please note that there is a general question at the end of the consultation where you can provide further information, if required.

13. Do you agree that Scotland should have the power to seize vehicles suspected of waste crime, similar to the rest of the UK?

- A) Yes
- B) No
- C) Neither agree nor disagree

14. Do you agree Scottish Ministers should have powers to introduce a new fixed penalty regime for littering from vehicles?

- A) Yes
- B) No
- C) Neither agree nor disagree

15. Do you agree with the introduction of a new system that stipulates that the registered keeper of a vehicle is ultimately responsible for criminal offences such as littering from or in relation to their vehicle (for example by passengers or people using that vehicle at that time)?

- A) Yes
- B) No
- C) Neither agree nor disagree

5. Assessing impact of bill proposals

We are committed to assessing the impact of our proposals. This consultation marks the start of processes to assess the equalities, business and regulatory, and environmental impact of our plans in compliance with legislative requirements and, importantly, to inform the policy development process.

A: Equality

In developing proposals for the circular economy bill, the public sector equality duty requires the Scottish Government to pay due regard to the need to:

- eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a relevant protected characteristic.

These three requirements apply across the ‘protected characteristics’ of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion and belief;
- sex and sexual orientation.

We have developed a partial Equality Impact Assessment (EQIA) to accompany this consultation.³⁶ Many of the proposed bill provisions are enabling powers, which in themselves cannot impact on an individual, or on the protected characteristics listed above. However, the aim of the Scottish Government is to use this consultation process as a means to explore fully any potential equality impacts. Comments received will be used to complete a full Equality Impact Assessment and to determine if any further work in this area is needed.

Any secondary legislation that flows from the powers within the circular economy bill will be subject to a further consultation and equality impact assessment.

³⁶ <http://www.gov.scot/ISBN/9781839603259>

Question

16. Taking into account the accompanying EQIA, are there any additional likely impacts the proposals contained in this consultation may have on particular groups of people, with reference to the 'protected characteristics' listed above? Please specify.

B: Business and regulation

In developing proposals for legislation, a Business and Regulatory Impact Assessment (BRIA) analyses whether a policy is likely to increase or reduce the costs and burdens placed on businesses, the public sector, voluntary and community organisations.

A partial BRIA accompanies this consultation.³⁷ Many of the proposed bill provisions are enabling powers and are therefore unlikely to impact directly on the costs and burdens placed on businesses, the public sector, voluntary and community organisations. Your comments will help inform a full BRIA, which will be published at the same time as a circular economy bill is introduced.

Any secondary legislation that flows from the bill's primary powers will be subject to a full BRIA and consultation at that time.

Question

17. Taking into account the accompanying BRIA, do you think that the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any business or sector? Please specify.

C: Environment

The Environmental Assessment (Scotland) Act 2005 ensures that those public plans that are likely to have a significant impact on the environment are assessed and measures to prevent or reduce adverse effects are sought. We intend to explore whether significant environmental effects are likely to arise through the Strategic Environmental Assessment process.

Question

18. Do you think that the proposals contained in this consultation are likely to have an impact on the environment? If so, which ones and how? Please specify.

³⁷ <http://www.gov.scot/ISBN/9781839603242>

6. Proposals for secondary legislation

We have set out below two proposals for secondary legislation on which we are seeking your views through this consultation. Other consultations mentioned elsewhere in this document, including on transposition of the EU Circular Economy Package, on implementation of the EU Single Use Plastics Directive and on food waste arrangements in Scotland, will follow in the coming months.

(i) Including circular economy and climate change obligations in the procurement strategies of public bodies

Public procurement in Scotland has a value of over £11 billion per year. It plays a crucial role in shaping markets and investment. We said, in our Programme for Government 2019-20, that we would consult on legislation to require public bodies to set out how they will meet climate change and circular economy obligations in their procurement strategies.

The Procurement Reform (Scotland) Act 2014 (“the 2014 Act”) requires each public body with an anticipated annual procurement spend of £5 million or more to prepare or to update a Procurement Strategy setting out how they mean to carry out their procurements for a given period. This includes describing their planned approach to delivering some significant obligations through their procurements like Fair Work and prompt payment.

Subject to the outcome of this consultation, we plan to use existing secondary legislation powers, in the 2014 Act, to add to this requirement so that public bodies will also have to specifically describe their approaches to meeting climate change and circular economy obligations in their procurement strategies, along similar lines to how they already describe their approaches to other obligations. As a result public bodies will also need to include climate change and circular economy when they describe in their companion annual procurement reports how they have delivered what they said they would in their procurement strategies. A report from the Scottish Ministers, summarising the content of individual annual procurement reports, is already provided to Parliament each year, which ensures ongoing scrutiny.

Tasking public bodies with taking more of a circular approach when they are buying their goods, services and works could, in turn, stimulate some increased demand for remanufactured and refurbished goods.

Using existing powers, to build on the legal framework established by the 2014 Act, rather than creating new powers in the circular economy bill means that the legislation can be put in place more quickly.

Question

Please note that there is a general question at the end of the consultation where you can provide further information, if required.

19. Do you agree with the proposal that procurement strategies published by relevant public bodies should include consideration of activity which supports the circular economy and action on climate change?

- A) Yes
- B) No
- C) Neither agree nor disagree

(ii) Increasing the minimum single-use carrier bag charge from 5p to 10p

As part of discussions around the 2019 budget, the Scottish Government committed to increasing the single-use carrier bag charge from a minimum of five pence to a minimum of ten pence at the earliest opportunity.

The five pence charge on carrier bags was introduced in 2014, through the Single Use Carrier Bags Charge (Scotland) Regulations 2014.³⁸ The original policy intent of the charge was to reduce litter.

Carrier bags have a disproportionate impact on wildlife, notably in the marine environment where they can be mistaken for food and cause death after ingestion. As they are light and easily windblown, they can spread widely and be difficult and expensive to remove from the wider environment. In 2014 research indicated that 750 million carrier bags a year were dispensed by supermarkets and that around 7.4 million of these bags were retrieved from the wider environment by Scottish local authorities.

Zero Waste Scotland conducted research into the impact of the carrier bag charge one year after it was introduced.³⁹ The report found that 650 million fewer bags were being handed out annually. Further benefits of the charge included £6.7 million being raised for charitable causes and savings of 4,000 tonnes of materials and over 2,500 tonnes of carbon dioxide equivalent.

The aim of the proposed price increase is to reinforce the benefits outlined above by reducing further the number of single-use carrier bags that are sold in Scotland and encouraging consumers to use alternative, sustainable options.

The proposed increase would also serve to keep Scotland in line with the rest of the UK. In 2019, the Department for Environment, Food & Rural Affairs (DEFRA) consulted on increasing the carrier bag charge in England to a minimum of 10 pence per bag.⁴⁰

³⁸ <https://www.legislation.gov.uk/ssi/2014/161/made>.

³⁹ https://www.zerowastescotland.org.uk/sites/default/files/SUCB_Charge_One_Year_On_Report.pdf.

⁴⁰ <https://consult.defra.gov.uk/environmental-quality/extending-the-single-use-bags-charge/>.

Questions

Please note that there is a general question at the end of the consultation where you can provide further information, if required.

20. Do you agree with the proposal to increase the minimum charge on single-use carrier bags from 5p to 10p?

- A) Yes
- B) No
- C) Neither agree nor disagree

21. Do you agree that the initial 5p minimum charge on single-use carrier bags has had a positive impact on the environment?

- A) Yes
- B) No
- C) Neither agree nor disagree

Conclusion

The focus of this consultation is to invite views on our planned approach to further developing a circular economy in Scotland. Consultation responses will inform our policy on how this can best be achieved, including legislative changes which we intend to present for consideration by the Scottish Parliament, through a combination of the circular economy bill and secondary legislation.

The questions throughout the consultation are repeated in a questionnaire at Annex A. However, in responding to this consultation, please do not feel constrained by the questions set. We appreciate some people will have a particular interest in certain areas. We would encourage you to respond to any or all of those areas where you feel you have a contribution to make.

We value your opinions and welcome your views on our proposals identified in this consultation document.

Question

22. Do you have any other comments that you would like to make, relevant to the subject of this consultation, that you have not covered in your answers to other questions?

Glossary of terms

BRIA	Business and Regulatory Impact Assessment
CEP	European Union Circular Economy Package
COPA 89	Control of Pollution (Amendment) Act 1989
CoPLAR	Code of Practice on Litter and Refuse
COSLA	Convention of Scottish Local Authorities
DEFRA	UK Department for Environment, Food & Rural Affairs
DRS	Deposit Return Scheme
EPECOM	Expert Panel on Environmental Charging and Other Measures
EPR	Extended Producer Responsibility
EQIA	Equalities Impact Assessment
EU	European Union
FWRAP	Food Waste Reduction Action Plan
NGOs	Non-governmental organisations
SCAP	WRAP's Sustainable Clothing Action Plan
SEPA	Scottish Environment Protection Agency
SMEs	Small and medium-sized enterprises
SUP	European Union Single-Use Plastics Directive
WRAP	Waste and Resources Action Programme
ZWS	Zero Waste Scotland

Annex A

Developing Scotland's Circular Economy

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

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Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

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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 Scottish Government to contact you again in relation to this consultation exercise?

Yes

No

CONSULTATION QUESTIONNAIRE

1: Reduce: tackling our throwaway culture

1. Do you agree in principle that Scottish Ministers should have the power to set charges for environmentally harmful items, for example single-use disposable beverage cups?

A) Yes

B) No

C) Neither agree nor disagree

2. Do you agree with the proposal to prioritise introduction of charges for single-use disposable beverage cups?

A) Yes

B) No

C) Neither agree nor disagree

3. Are there any others items that these new powers for environmental charging should be applied to in the future?

A) Yes

B) No

C) Don't know

If yes, please specify:

2: Reuse: encouraging use and reuse to prevent waste

4. To strengthen monitoring, measurement and reporting of waste across all sectors, do you agree with the principle that Scottish Ministers should have the power to require mandatory public reporting of:

I – business *waste*?

A) Yes

B) No

C) Neither agree nor disagree

II – business *surplus*?

A) Yes

B) No

C) Neither agree nor disagree

5. Do you agree with the proposal to prioritise introduction of mandatory public reporting for businesses of:

I – food *waste*?

- A) Yes
- B) No
- C) Neither agree nor disagree

II – food *surplus*?

- A) Yes
- B) No
- C) Neither agree nor disagree

6. Are there any other items, such as textiles and clothing, that mandatory reporting requirements on waste and surplus should be expanded to in the future?

- A) Yes
- B) No
- C) Don't know

If yes, please specify:

7. Do you have any suggestions on how to encourage the reuse and redistribution of unwanted surplus stock, such as clothing and textiles?

- A) Yes
- B) No
- C) Don't know

If yes, please specify:

3: Recycle: maximising value of materials

8. Do you agree with the principle of enabling Scottish Ministers to place additional requirements on local authorities in order to increase rates and quality of household recycling?

- A) Yes
- B) No
- C) Neither agree nor disagree

If yes, what should these “additional requirements” be?

9. Do you agree with the principle of greater consistency in household recycling collections in different local authority areas?

- A) Yes
- B) No
- C) Neither agree nor disagree

10. Do you consider that we should move away from the current voluntary approach to Scotland's Household Recycling Charter towards a more mandated approach, whereby implementation of the Charter and its supporting Code of Practice becomes a statutory obligation?

- A) Yes
- B) No
- C) Don't know

11. Do you consider that householders' existing obligations are sufficient?

- A) Yes
- B) No
- C) Don't know

12. Are there any other measures that you consider Scottish Government should take to help accelerate the rate and quality of household recycling in Scotland, taking account of experience and approaches elsewhere and existing householder behaviours?

- A) Yes
- B) No
- C) Don't know

If yes, please specify:

4: Improving enforcement

13. Do you agree that Scotland should have the power to seize vehicles suspected of waste crime, similar to the rest of the UK?

- A) Yes
- B) No
- C) Neither agree nor disagree

14. Do you agree Scottish Ministers should have powers to introduce a new fixed penalty regime for littering from vehicles?

- A) Yes
- B) No
- C) Neither agree nor disagree

15. Do you agree with the introduction of a new system that stipulates that the registered keeper of a vehicle is ultimately responsible for criminal offences such as littering from or in relation to their vehicle (for example by passengers or people using that vehicle at that time)?

- A) Yes
- B) No
- C) Neither agree nor disagree

5: Assessing impact of bill proposals

16. Taking into account the accompanying EQIA, are there any additional likely impacts the proposals contained in this consultation may have on particular groups of people, with reference to the 'protected characteristics' listed above? Please specify.

17. Taking into account the accompanying BRIA, do you think that the proposals contained in this consultation are likely to increase or reduce the costs and burdens placed on any business or sector? Please specify.

18. Do you think that the proposals contained in this consultation are likely to have an impact on the environment? If so, which ones and how? Please specify.

6: Proposals for secondary legislation

19. Do you agree with the proposal that procurement strategies published by relevant public bodies should include consideration of activity which supports the circular economy and action on climate change?

- A) Yes
- B) No
- C) Neither agree nor disagree

20. Do you agree with the proposal to increase the minimum charge on single-use carrier bags from 5p to 10p?

- A) Yes
- B) No
- C) Neither agree nor disagree

21. Do you agree that the initial 5p minimum charge on single-use carrier bags has had a positive impact on the environment?

- A) Yes
- B) No
- C) Neither agree nor disagree

Conclusion

22. Do you have any other comments that you would like to make, relevant to the subject of this consultation that you have not covered in your answers to other questions?



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Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83960-326-6 (web only)

Published by The Scottish Government, November 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS659382 (11/19)

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