

# **Circular Economy (Scotland) Bill**

## **Islands Communities Screening Assessment**

**June 2023**

## Purpose and context of the Circular Economy Bill

1. In the 2021-2022 Programme for Government, the Scottish Government committed to bring forward a Circular Economy Bill, to help facilitate the development of an economy which reduces demand for raw materials, designs products to last as long as possible and encourages reuse, repair, and recycling.
2. This Bill builds on the Circular Economy Strategy 'Making Things Last', published in 2016, alongside other policy work to embed the principles of a circular economy in Scotland and take action to make effective use of our planet's finite resources.
3. The Circular Economy Bill should also be seen in the context of the 2020 Climate Change Plan update, which set out a vision for 2045 where Scotland's cultural, social, and business norms would be driven by a focus on:
  - **Responsible production**, where a circular economy is embraced by the businesses and organisations that supply products, ensuring the maximum life and value from the natural resources used to make them.
  - **Responsible consumption**, where people and businesses demand products and services in ways which respect the limits of our natural resources. Unnecessary waste, in particular food waste, will be unacceptable in Scotland.
  - **Maximising value from waste and energy**, where the environmental and economic value of wasted resources and energy is harnessed efficiently
4. The Circular Economy Bill will establish the legislative framework to support Scotland's transition to a zero waste and circular economy, significantly increase reuse and recycling rates, and modernise and improve waste and recycling services. 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 such as the ban on single-use plastic items, reform of producer responsibility schemes (particularly in relation to packaging), and investment in household recycling through the £70 million Recycling Improvement Fund.

## **Provisions within the Circular Economy Bill**

5. The provisions within the Bill will be mainly enabling in nature, setting out a framework that builds on existing Scottish Government policy on preventing and managing waste and promoting a circular economy, including through materials reuse, and recycling. It is intended to ensure that Scottish Government has the powers necessary to move Scotland towards a circular economy.

6. The measures within the Bill are:

### *Circular economy strategy*

*Placing a duty on Scottish Ministers to publish or refresh a circular economy strategy at least every 5 years in order to direct national policy on the circular economy.*

### *Circular economy targets*

*Developing statutory targets for the Scottish Ministers to provide a focus for action.*

### *Restrictions on the disposal of unsold consumer goods*

*Providing powers to limit the disposal of unsold goods in order to reduce wasteful practice.*

### *Charges for single use items*

*Creating a power to set a minimum charge for certain throwaway items in order to drive waste reduction and greater use of reusable items (the intention is for this initially to be applied to single-use Disposable beverage cups).*

### *Householder's Duty of Care in relation to waste*

*Making it a criminal offence for a householder to breach their existing duties of care under the Environmental Protection Act 1990, in relation to fly-tipping and sorting of waste, and creating a new fixed penalty regimes to enforce these duties.*

### *Household waste*

*Requiring local authorities to comply with a code of practice on recycling and giving local authorities a package of new responsibilities and powers, including powers to set recycling targets.*

### *Littering from vehicles*

*Establishing a new civil penalty regime that will make the keeper of a vehicle liable to pay a penalty charge in respect of a littering offence committed from that vehicle.*

### *Enforcement powers in respect of certain environmental crimes*

*Improving enforcement against fly-tipping and other waste crime through a power allowing the Scottish Environment Protection Agency ("SEPA") and local authorities to seize vehicles involved in specified waste crime.*

### *Reporting of waste, surpluses, etc.*

*Obtaining information about where waste is occurring through a power to require information which would lead to public reporting of waste and surplus by businesses (the intention is for this initially to be applied to information about food).*

## **The Islands (Scotland) Act 2018**

7. The Islands (Scotland) Act 2018 provides for a duty on Scottish Ministers and other relevant public bodies that they must have regard to island communities in exercising their functions and in the development of legislation.
8. Section 13 of the 2018 Act obliges the Scottish Ministers to prepare an Islands Communities Impact Assessment (ICIA) in relation to legislation which, in their opinion, is likely to influence an island community that is significantly different from its effect on other communities in Scotland.
9. Section 13 of the 2018 Act states that an ICIA must:
  - a. Describe the likely significant different effect of the legislation.
  - b. Assess the extent to which the Scottish Ministers consider that the legislation can be developed in such a manner as to improve or mitigate, for island communities, the outcomes resulting from the legislation; and
  - c. Set out the financial implications of steps taken under this subsection to mitigate, for island communities, the outcomes resulting from the legislation.
10. The Scottish Government's Island Communities Impact assessments guidance sets out four preliminary stages that must be undertaken prior to preparing an ICIA. These are:
  - a. Developing a clear understanding of the objectives and intended outcomes of the policy, strategy or service including any island needs or impacts
  - b. Gathering data, identifying evidence gaps and identifying stakeholders
  - c. Consulting with appropriate stakeholders
  - d. Assessing whether there are any issues resulting from the proposed policy that are significantly different from those that would be experienced on the mainland, or on other islands
11. If any significantly different impacts are identified, an ICIA will be required

## **Framing**

12. This screening assessment seeks to complete the first two stages of the ICIA process by identifying whether there are issues which merit further exploration through research and engagement with island representatives.
13. As the majority of the proposed measures within the Circular Economy Bill are enabling powers, it is not possible to fully assess the impact of these parts of the Bill on island communities at this stage. This iteration of the document has been updated following the public consultation. However, it remains a high-level assessment and further, more detailed ICIA's will be undertaken when secondary legislation follows to implement the measures proposed in this Bill as required.

## Methodology

14. An initial screening was carried out with Zero Waste Scotland and Scottish Government officials to set the scope for the aspects of the Bill that require further research to ensure potential impacts are mitigated appropriately. It should be noted that at the time of the workshop, the policy proposals for consultation were still being agreed, and some proposals have been amended since this point. As a result, this assessment has been updated following further development of the Bill measures and reflects the proposals in the draft Bill.
15. Desktop research was carried out to further investigate and gather existing evidence in relation to the proposals.
16. In addition, this assessment draws on previous research conducted as part of preparations for the previous Circular Economy Bill consultation in December 2019. The implementation of that Bill was subsequently postponed due to the impact of Covid on Parliamentary business.<sup>11</sup>
17. This iteration of the ICIA has been updated following the most recent CE Bill Consultation<sup>2</sup> to take into account the consultation responses. The consultation provided opportunities for stakeholders to identify any additional likely impacts/areas of impact.
18. It is important to stress that the powers included in the Circular Economy Bill are mainly enabling powers, which will require subsequent secondary legislation to implement each individual policy, to clarify the detailed approach to be taken and bring the policy into force. Where proposals do not require secondary legislation, they have been considered further below.
19. This Islands Communities Screening Assessment, therefore, does not contain a detailed analysis of the impacts of each policy on island communities. However, all subsequent secondary legislation will be subject to further impact assessments and associated consultations.
20. This screening assessment identifies priorities for further analysis at that stage as well as areas where further evidence-gathering is required once the detailed design of each policy is known. Detailed ICIA's will also provide opportunities for island communities, agencies, and businesses to highlight concerns and to help maximise the benefits from future policies.

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<sup>1</sup> [Ministerial Foreword - Delivering Scotland's circular economy - proposed Circular Economy Bill: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/ministerial-foreword-2020-06/pages/ministerial-foreword-2020-06-01.aspx)

<sup>2</sup> [Delivering Scotland's circular economy: Proposed Circular Economy Bill - Consultation analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/delivering-scotland-s-circular-economy-proposed-circular-economy-bill-consultation-analysis/pages/delivering-scotland-s-circular-economy-proposed-circular-economy-bill-consultation-analysis-2020-12-01.aspx)

## Key findings

21. Following the initial workshop, the desktop research and the work undertaken for the previously-planned Circular Economy Bill, the following key issues were identified for investigation and are explored in further detail below:

- **Choice for consumers:** concerns were raised that retailers may reduce their product range, either to avoid needing to charge for certain items, or to help manage waste or surpluses. There may also be price and availability issues for reusable items.
- **Transport:** changes to delivery or collection systems may be more difficult to implement or more expensive for island authorities or affected organisations due to the greater distances involved and use of ferries and the associated time and availability constraints.
- **Storage:** the ability to store and segregate waste may be hindered by lack of facilities and / or the increased amount of time it could take to remove items off island.

22. Following the close of the 2022 CE Bill consultation<sup>3</sup>, there was good alignment between responses received to the question on the Islands Impact assessment, and these three identified issues, particularly regarding transport and storage.

23. A number of comments suggested that the Bill proposals could potentially benefit the islands, with local businesses being well placed to take advantage of any future changes.

24. In the CE Bill consultation response analysis, there was support for additional and more detailed ICIA's to be carried out for the majority of proposals, as required, in future as secondary legislation is taken forward.

### *Householders Duty of Care*

25. In relation to the householder's duty of care in relation to waste proposal, an Island Communities Impact Assessment was undertaken as part of the development of a refreshed National Litter and Flytipping Strategy. This concluded that its actions, which include a focus on improved litter and flytipping enforcement, are not anticipated to have a significant disproportionate impact on island communities. It was also noted that island communities suffer more acutely from some types of litter and flytipping such as coastal litter and have fewer, or more challenging, disposal routes for waste items. If the Strategy is successful in achieving the aim of reducing litter and flytipping, this could have a larger positive impact for island communities for this reason.

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<sup>3</sup> [Delivering Scotland's circular economy: a consultation on proposals for a Circular Economy Bill - Scottish Government - Citizen Space](#)

### *The choice for consumers*

26. This issue relates to the following measures:

- a. Restriction on the destruction of unsold consumer goods.
- b. Charges for single use items (for example, single-use disposable cups).
- c. Reporting on waste, surpluses, etc.

27. Consultation responses and discussions with local authorities as part of the previously planned Circular Economy Bill proposals highlighted that Island Communities already experience a relative lack of choice in terms of access to goods and services when compared to other communities and this is still relevant here. This is a result of reliance on a smaller number of shops in the local area, and the higher cost of deliveries to more remote parts of Scotland.<sup>4</sup>

28. Concerns have been raised that the need to report on waste and surpluses and the banning of the destruction of unsold goods may mean that shops seek to remove product lines from their island premises where demand is low or variable, to avoid having to report on or physically manage high levels of waste or surplus. In combination with high delivery charges for goods purchased online, this could reduce consumer choice.

29. However, if these powers were initially used to target large retailers, this would minimise the impact on island communities.

30. In addition, there is a chance that retailers may seek to avoid stocking items where charging for single use items is put in place, to avoid the associated administrative burden. This is likely to have a greater impact on island communities, where there is less ability to shop around.

31. These factors could have a particular impact on those in island communities who already have a restricted product choice through personal circumstances, whether this is a result of dietary requirements, religious reasons, disability, health issues or financial constraints.

32. These factors will be considered during the development of relevant secondary legislation and accompanying ICIAs. We would intend to consult island retailers at this stage.

### *Transport*

33. This issue relates to the following measure:

- a. Household waste, specifically in relation to the code of practice on household waste recycling and targets for waste collection relating to household waste recycling.

34. It has been a common theme of Island Community Impact Assessments to date that there are unique challenges for island communities regarding the availability and affordability of transport.

35. For the Circular Economy Bill, there are several transport-related impacts that

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<sup>4</sup> [Fairer deliveries for all - gov.scot \(www.gov.scot\)](http://www.gov.scot)

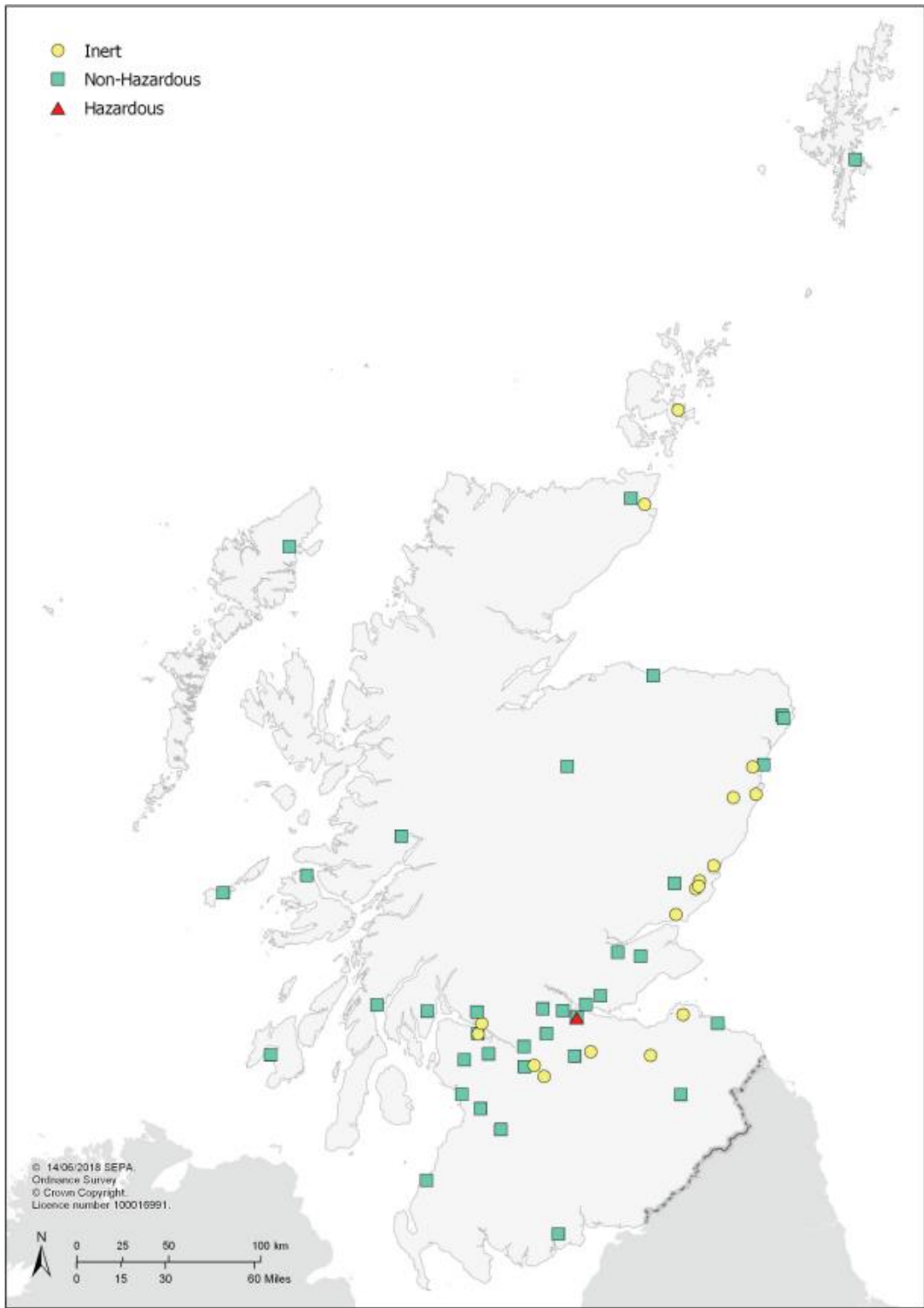
may be different for island communities.

36. There are often higher costs associated with transporting goods and equipment onto islands. This means that any necessary changes to the collection system may be more expensive to implement.
37. The rural nature of many island communities also means that collection routes are less efficient. Some islands do not have kerbside recycling services at present for this reason.
38. If changes are mandated to what materials are collected, or how this is done, the associated costs of carrying out the collections are likely to be higher for island communities, because of the greater distances involved. This may mean that collections are not economically viable without additional funding or consideration given to different operating models.
39. In addition, while many islands have local access to a landfill or other residual waste treatment facility, all other waste must often be transported off island, often by ferry, for processing. SEPA's Landfill Sector Plan<sup>5</sup> identifies the locations of operational landfill sites in Scotland, and clearly shows the limited facilities available on islands as shown by the map below. Provisions relating to Household waste are designed to reduce the amount of waste sent to landfill or incineration. This may prove beneficial to islands without the facilities currently faced with high transportation targets. However, the majority of the reduction would come from increased recycling which may increase costs for islands required to transport recycling to other locations.

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<sup>5</sup> [Landfill sector plan | Scottish Environment Protection Agency \(SEPA\)](#)





40. Increased recycling rates, or greater segregation of waste may result in a larger amount of space being required on ferries. This again increases the associated transport costs. This is a particular issue when multiple ferry journeys are required before waste arrives at its destination.
41. Consultation with island authorities as part of the extended producer responsibility ICIA process<sup>6</sup> highlighted that the small waste volumes generated on some islands means that the full capacity of collection vehicles or containers is not used, decreasing the efficiency of services. Some island authorities also noted that they can face challenges with the cost of back haulage and with ferry capacity during busy periods.
42. Therefore, any future regulations or guidance associated with this Bill that leads to increased segregation of waste may exacerbate this issue therefore should be considered further. There is also the potential for there to be an issue around the available transport capacity on popular ferry routes that serve islands which have a high number of tourists.
43. Where necessary, local authorities may need to target off-peak services for the removal of waste. However, further discussions with island representatives will be undertaken at the secondary legislation stage to identify issues.
44. In the event of limited space being available or poor weather disrupting services, it may be necessary for waste to be stored locally on a temporary basis. Greater segregation of waste may increase the space that is required to do this or create a need for new facilities.
45. The impact of these issues will be considered in the future development of measures to strengthen the approach to household recycling collection services.
46. The public consultation on these measures will provide opportunities for island communities to comment on these issues.
47. A more detailed ICIA will be undertaken once proposals for secondary legislation are being developed.

### *Storage*

48. This issue relates to the following measures:
  - b. Household waste, specifically in relation to the code of practice on household waste recycling, and targets for waste collection relating to household waste recycling.
49. The storage issue links into the same measures as transport for very much the same reasons. The collection and separation of a wider range of items could require greater space for storage to allow items to be split and processed.
50. It should be noted that this is an issue that will affect all areas and that in some

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<sup>6</sup> [UK packaging producer responsibility system reform: partial island communities screening assessment - gov.scot \(www.gov.scot\)](http://www.gov.scot)

instances the level of space available may be greater in rural areas.

51. This issue will need to be further investigated with islands communities and island-based local authorities to completely understand any specific issues that may need further investigation.

### **Recommendations and conclusions**

52. The initial iteration of this ICIA identified three key ways in which island communities may be impacted differently to other parts of Scotland because of the Bill proposals.

53. Responses to the 2022 CE Bill consultation did not identify further issues.

54. The three issues are:

- the potential for a reduction in the choice of goods that is available to communities.
- issues relating to transport, particularly including both ferries and the greater distances involved.
- the ability to store segregated waste and separated waste for longer periods.

55. The Circular Economy Bill will mainly contain a series of enabling powers, which will allow the Scottish Government to introduce secondary legislation. While the overall aims are clear, certainty on how the proposals will be implemented will only come after more detailed policy development and consultation. As a result, assessing the impact on island communities in detail is not possible at this stage.

56. As and when each piece of secondary legislation is developed, more detailed ICIA's will be carried out. Those ICIA's will provide opportunities for island local authorities, communities, and businesses to understand the potential impact more fully on island communities and to influence the detail of proposals as appropriate.

57. A full Islands Community Impact Assessment is NOT required.



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