

Response ID ANON-7Z2F-RKNN-2

Submitted to **Circular Economy: Proposals for Legislation**

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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?

Yes

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

Yes

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

Yes

If yes, please specify. :

Items that are environmentally harmful, difficult to recycle or that have a high carbon impact relative to their tonnage should be banned where there are suitable alternatives. Since the primary powers to ban items already exist, comprehensive criteria for imposing bans should be drawn up as a matter of urgency. Rather than listing individual items, a more holistic approach should be taken. For example, companies could be banned from giving away certain types of free gifts, rather than banning the individual items. International good practice should inspire decisions, and the EU Single Use Plastics Directive should be transposed as a matter of urgency. Potential items to ban include plastic plants, and other items which cause significantly more damage than the thing they were created to replace.

Where a decision is made to apply a charge rather than ban an item, the approach taken should also be as holistic as possible. There is insufficient time and resources to deal with items on an individual basis. The process for demonstrating the extent of environmental damage caused by items must be straightforward, and allow for the timely passing of secondary legislation.

Section 140 of the Environmental Protection Act (1990) covers the powers devolved administrations have "to prohibit or restrict the importation, use, supply or storage of injurious substances or articles".

That section was used as the primary basis for the Environmental Protection (Microbeads) (Scotland) Regulations 2018, where an article previously mistakenly thought to be safe (plastic stems) had become clearly "injurious", and again for the Environmental Protection (Cotton Buds) (Scotland) Regulations 2019.

This legislation could be used to drive a more holistic approach, by implementing it systematically as follows.

Require all companies placing products onto the Scottish market to set out the materials and inputs required to make them so they can be assessed against S140 of the 1990 Act.

Where materials are injurious (e.g. the damage caused by polystyrene in the environment, as per cotton buds) they should be prohibited, with exceptions for legitimate use cases for which no alternative is available (e.g. medical supplies).

Where alternatives are available but not in widespread use, a target date for a prohibition should be established to give the market a clear signal.

To set out that all companies must accept back both all the packaging they use and all used products - and explain how all of those materials will be reused or recycled. This is consistent with the "polluter pays" principle set out in this document and embodied (for drinks containers only) in the Scottish Government's proposed deposit return system.

New powers may be required for other measures in this space, such as prohibiting materials which don't have above a certain proportion of recycled content, or charging levies in proportion to the amount of virgin material used. Where powers may be reserved, a Section 30 order should be obtained.

The Scottish Government must commit to the urgent transcription of the following EU legislation, despite our impending exit.

EU Right to Repair

EU SUP Directive

EU CE Package

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:

Yes

Yes

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

Yes

Yes

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?

Yes

If yes, please specify.:

Reporting requirements should be placed on both private and public bodies, and applied to all waste and surplus, as one of the main aims of a circular economy is to design out waste. Organisations should be held financially accountable for their surplus stock and waste through an extended producer responsibility system. Priority should be given to items with the highest life cycle environmental and social costs and those with the highest reuse potential. Reporting requirements should be expanded to clothing and all textiles (including carpets and soft furnishings) as a matter of urgency. Other items of waste surplus for early consideration should be bioresources – from the agriculture, forestry and fishing sectors (including aquaculture) and related processing.

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

Yes

If yes, please specify.:

The financial and environmental costs of all waste and surplus stock must be accounted for under a suitable system of extended producer responsibility. Such a system must require businesses to design-out surpluses within a set time period, and require retailers to use or recycle any arising surplus stock so that landfill or incineration are not an option.

Extended producer responsibility, if designed well, can encourage eco-design. Eco-design requirements would mean that surplus stock would become more valuable for reuse as it will have been made in a way such that it is relatively easy to take apart / reuse / recycle. We anticipate enabling powers for Scottish Ministers to bring forward an EPR scheme, either via the UK Environment Bill or the Scottish Circular Economy Bill.

An element of eco-design is to ensure that harmful chemicals are absent. Chemical additives in products can make them unsuitable for reuse and recycling.

There should be a landfill and incineration ban on items with reuse or recycling potential.

Scottish Government should work with other UK Governments on product eco-standards based on full life-cycle analysis of the environmental and social costs.

A levy should be applied to items that do not comply with eco-design requirements.

A database of surplus stock (and waste) should be publicly available so that potential users of this resource are aware of it.

It is important that Scotland develops infrastructure that supports reuse and ensures that recycling, landfill and incineration are not inadvertently incentivised. This means that Local Authorities must not have requirements placed on them that bind them to planning for the status quo.

The EU's Green Deal includes a circular economy action plan which will include a 'sustainable products' policy to support the circular design of all products based on a common methodology and principles. It will prioritise reducing and reusing materials before recycling them. It will foster new business models and set minimum requirements to prevent environmentally harmful products from being placed on the EU market. Extended producer responsibility will also be strengthened.

While the circular economy action plan will guide the transition of all sectors, action will focus in particular on resource-intensive sectors such as textiles, construction, electronics and plastics. The Commission will follow up on the 2018 plastics strategy focusing, among other things, on measures to tackle intentionally added micro-plastics and unintentional releases of plastics, for example from textiles and tyre abrasion. The Commission will develop requirements to ensure that all packaging in the EU market is reusable or recyclable in an economically viable manner by 2030, will develop a regulatory framework for biodegradable and bio-based plastics, and will implement measures on single use plastics.

The circular economy action plan will also include measures to encourage businesses to offer, and to allow consumers to choose, reusable, durable and repairable products. It will analyse the need for a 'right to repair', and curb the built-in obsolescence of devices, in particular for electronics. Consumer policy will help to empower consumers to make informed choices and play an active role in the ecological transition. New business models based on renting and sharing goods and services will play a role as long as they are truly sustainable and affordable. The Commission is of the view that the EU should stop exporting its waste outside of the EU and will therefore revisit the rules on waste shipments and illegal exports. It is important that the Scottish Government matches these ambitions, regardless of our EU status.

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?

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?

Yes

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?

Don't know

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

Yes

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?

Not Answered

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?

Yes

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

Yes

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)?

No

5. Assessing impact of bill proposals

16 Taking into account the accompanying Equality Impact Assessment (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 Business and Regulatory Impact Assessment (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?

Yes

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

No

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

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?

Please provide any comments.:

In relation to Question 9, we have following additional comments:

While greater consistency of recycling is desirable, we also need a household reuse charter in order to put reuse on a comparable (or even preferential) basis to recycling. We must challenge the assumption that recycling is a suitable end of life for most resources, eg plastic made into road fillers contributes massively to microplastics in aquatic environments.

We suggest the following measures:

1. Adding reuse metrics (monitoring and targets) to the Household Recycling Charter (and mandating the Charter)

2. Requiring councils to offer a comprehensive reuse service at all Household Waste Recycling Centres (preferably facilitated by local social enterprises)
3. Further support for embedding and mainstreaming reuse and repair systems
4. Preparing for an extended producer responsibility (EPR) framework across a wider range of materials and items

It is unclear whether these proposals do anything to promote a sharing economy which is both affordable and accessible.

In relation to Question 10 we have following additional comments:

Any additional requirements on local authorities (LAs) must be introduced in line with extended producer responsibility improvements. It is understandable that the Scottish Government wishes to introduce regulation to bring greater consistency, given that the Household Recycling Charter is voluntary and even though 30 out of 32 LAs have signed up, only 6 - 8 of them fully comply. However, regulated recycling consistency must happen alongside other measures, in the following order:

1. Producers required to standardise materials, a process that happens in tandem with 2. LAs standardising their collection services and infrastructure.
3. LA requirements and infrastructure funded by full EPR reform.
4. Producers have requirements on labelling

Only then can reasonable expectations be placed on householders (see question 11).

Our response to question 15 does not come from a place of approval for littering. We just do not believe that this is related in any way to a Circular Economy, which at its heart must be a holistic approach to creating entire system change rather than tackling small, piecemeal issues.

In order for Scotland to be a leader in the Circular Economy, this Bill must prioritise action in the following order:

1. Reuse by repairing goods through re-hiring people, while raising awareness of the radical benefits of such a model
2. Redistribute by promoting access to goods through collaboration, while sharing information about this model
3. Remanufacture via the ease of disassembly of goods by training people, while sharing the acquired knowledge through this model
4. Migration of recycling activities by diverting goods to service models, transferring skills to remanufacturing processes
5. Regenerate natural systems by committing to a nutrient budget which includes a phosphorus balance sheet

All of the above make sense in a world where planetary limits have already hit most economies. Adopting a circular strategy by avoiding reliance on recycling is the way forward. This Bill must be about genuine innovation derived from genuine leadership. A French legislative committee has passed an amendment proposing to make it against the law to promote the annual shopping frenzy, warning that extra sales cause "resources waste" and "overconsumption". The Scottish Government should seek to take similar measures through the Circular Economy Bill. More information can be found here: <https://www.independent.co.uk/news/world/europe/black-friday-france-ban-environment-waste-sales-deals-a9225381.html>

In relation to Question 21 we have following additional comments:

According to a recent investigation by Greenpeace and the Environmental Investigation Agency (see <https://www.greenpeace.org.uk/news/supermarkets-more-plastic-than-ever/>), the 5p charge has driven down demand for single use carrier bags, but the problem has now been shifted to "bags for life". In 2018, 1.5 billion "bags for life" were sold by UK supermarkets, which is an average of 54 per household (or one "bag for life" purchased each week).

This problem must be tackled by banning single-use carrier bags of all thicknesses whilst charging at least 70p on single use bags made from all other materials. (This amount is in line with Ireland's recent commitments).

Additionally, this Bill should introduce primary powers to set a minimum standard for bags sold for reuse. There are many examples of this legislation in US states, and often the criteria is that the bag must have a stitched handle in order to qualify as reusable

About you

What is your name?

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Association for the Protection of Rural Scotland

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

Publish response with name

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

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Please enter comments here.: