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Net Zero, Energy and Transport Committee
Scottish Parliament

By email - netzero.committee@parliament.scot

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Dear Edward

I am writing to provide an update on progress towards implementing the Deposit and Return Scheme (DRS), including improvements to the exemptions service, published today, which should make it clearer, quicker and easier for eligible retailers to seek an exemption from operating as a return point, should they wish to do so.

You will know that the Scottish Government remains strongly committed to introducing DRS on 16 August 2023. The scheme will recycle billions of bottles and cans a year, cut CO₂ emissions and litter, and is a vital step on the road to Net Zero and a circular economy. Similar schemes have already proven successful in many European countries and we are confident that Scotland's will deliver similar results.

I am pleased to be able to say that excellent progress is being made on a number of fronts. Circularity Scotland Limited (CSL) is now fully established, with a full board appointed, a permanent CEO and executive team in place and has appointed 60 full time staff. It has signed contracts with Reverse Logistics Group (RLG) for scheme IT system and with Biffa for operations, logistics, and plastics reprocessing. CSL is also developing and constructing the logistical network that will support the effective operation of the scheme. I expect CSL to finalise its operational plan later this month.

Businesses are moving towards an advanced stage of preparation, with producers and retailers investing heavily in updating packaging, systems and supply chain. Reverse Vending Machine procurement and roll-out is underway, with return infrastructure being installed across Scotland. Trials are underway in major supermarkets and the Return & Recycle Orkney initiative will launch on the Friday 4th November. Planning is also underway across local authorities, including changes to kerbside recycling and piloting return infrastructure settings such as schools.

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As you know, DRS is a significant undertaking for Scotland – it is a complex, innovative programme that will involve changes to systems and behaviour across society, and is not without its challenges. As an industry-led scheme, implementation of DRS rests with the scheme administrator, CSL. Nevertheless, I continue to engage very closely with stakeholders and CSL to identify pragmatic action that Scottish Government can also take to address concerns. As one such action, I am pleased to update you that from today we are rolling out updated guidance on the return point exemptions service that will streamline the process for retailers, while also making sure that people all across the country can still easily access a return point.

The DRS Regulations have an existing exemptions mechanism to allow retailers to apply for an exemption from return point obligations in one of two circumstances:

- a) proximity – they are within reasonable proximity of an alternative return point that has agreed to accept packaging on behalf of the applicant and will still provide consumers reasonable access to a return point
- b) environmental health – operating as a return point would put them at significant risk of being in breach of existing legal obligations.

Retailers can apply for an exemption via an existing exemption service. The application process is managed by Zero Waste Scotland (ZWS), which makes recommendations to Scottish Ministers as to whether exemptions should be granted. Applications are assessed on the basis of guidance produced by the Scottish Government in consultation with stakeholders.

Over the past year, I have engaged closely with retail businesses and trade associations regarding the exemptions process. This engagement has highlighted a number of challenges that retailers are facing in engaging with the service, as well as the scale of the financial uncertainty being brought about by the cost crisis that is having a disproportionately large impact on smaller retailers.

The changes we are making to the guidance do not change the eligibility criteria for return point exemptions, which are set in DRS Regulations but do address industry concerns relating to the accessibility of the process. The updated guidance and support will include:

1. A new 'Return Point Mapping & Exemption Support' service to help retailers identify an alternative return point, and to remove the requirement to share commercially sensitive information with other retailers.
2. Confirmation that we will take the size of a premises into account in determining the risk of breach obligations relating to environmental health. A retailer is likely to be approved for an environmental health exemption if the footprint of their premises is 100m² or less, or if they are a food-to-go retailer and the footprint of their premises is 280m² or less.
3. Streamlined evidence and assessment processes that better take into account the challenges facing specialist, food service, and hospitality retailers. They should also speed up the decision making process for Scottish Ministers, and provide clarity to retailers on the outcome of their application.

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In updating guidance, I have been determined to ensure that the accessibility of Scotland's Deposit Return Scheme is maintained. It has always been the case that some areas will have no access to a nearby return point, and that any exemptions system could exacerbate that risk. To that end, CSL has committed to take responsibility for managing this risk, by providing direct support to areas with no or low accesses to return points. I have sought assurances from CSL that it will assist retailers seeking to apply for exemptions, and support the establishment of shared return points. I have a strong expectation that CSL will embrace this responsibility to build an accessible, efficient, and effective return network that works in the interest of both businesses and consumers across Scotland.

I will continue to work closely with businesses and others to ensure that we have pragmatic solutions as they work to implement this transformational scheme, recognising the enormous pressures everyone is facing during the current costs crisis. This includes addressing concerns over online takeback obligations, and working with HM Treasury to reach a solution on VAT on deposits. I am looking forward to updating you further on progress, and to the launch of Scotland's Deposit Return scheme next year.

Kind regards

LORNA SLATER

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