

Circular Economy (Scotland) Bill — Stage 2

Section 1

Sarah Boyack

181 In section 1, page 1, line 12, at end insert—

<() must set out how the Scottish Ministers will act in accordance with the “do no harm” principle,>

Mark Ruskell

182 In section 1, page 1, line 12, at end insert—

<() must set out improvement plans for transition minerals for the Scottish energy sector,>

Mark Ruskell

183 In section 1, page 1, line 18, after <materials> insert <in particular giving priority to materials which are most harmful or polluting across the material’s life cycle>

Sarah Boyack

184 In section 1, page 1, line 24, at end insert—

<() the waste hierarchy of rethink, refuse, reduce, repurpose, reuse, recycle and rot is considered.>

Monica Lennon

185 In section 1, page 1, line 24, at end insert—

<() the highest possible standard of due diligence with regards to human rights is adhered to.>

Mark Ruskell

186 In section 1, page 2, line 10, at end insert—

<() In this section, “transition minerals” mean materials vital to the transition away from fossil fuels.>

Section 2

Bob Doris

187 In section 2, page 2, line 13, at end insert—

<() relevant policy makers, human right defenders and environmental experts from the Global South,>

Sarah Boyack

188 In section 2, page 2, line 14, after <appropriate> insert—

<() such persons or organisations that may be affected or interested by the strategy, in particular any international organisations>

Section 5

Mark Ruskell

189 In section 5, page 3, line 5, at end insert—

<() where any objectives have not been met, the measures the Scottish Ministers propose to meet those objectives,>

After section 5

Maurice Golden

190 After section 5, insert—

<Requirement to review guidance

SEPA must review any waste guidance published by them to ensure it is in accordance with the circular economy strategy.>

Section 6

Mark Ruskell

191 In section 6, page 3, line 20, after <materials> insert <, in particular giving priority to materials which are most harmful or polluting across the material's life cycle>

Sarah Boyack

192 In section 6, page 3, line 26, at end insert—

<() the waste hierarchy of rethink, refuse, reduce, repurpose, reuse, recycle and rot is considered.>

Sarah Boyack

193 In section 6, page 3, line 32, at end insert—

<() rethinking or redesigning goods, products or materials,
() increasing repair,
() encouraging goods, products or materials to be re-gifted,>

Sarah Boyack

194 In section 6, page 3, line 32, at end insert—

<() reducing Scotland's carbon footprint resulting from the life cycle and supply chain of any good, product or material (whether in Scotland or elsewhere),>

Sarah Boyack

195 In section 6, page 3, line 32, at end insert—

- <() provide for different targets in relation to different materials, such as—
- (i) glass,
 - (ii) PolyEthylene Terephthalate,
 - (iii) cartons,>

After section 7

Mark Ruskell

196 After section 7, insert—

<Reporting requirements on those in receipt of public funds

- (1) All private companies, associations, corporations or persons in receipt of grants or loans from any Scottish public authority must, within the reporting period—
 - (a) prepare a report, and
 - (b) provide any Scottish public authority that is providing a grant or loan to the company (or as the case may be the association, corporation or person) with a copy of that report.
- (2) The report under subsection (1) must include—
 - (a) a review of the company’s (or as the case may be the association’s, corporation’s or person’s) activities and the extent to which the activity relates to each element of the waste hierarchy,
 - (b) a statement as to how the company (or as the case may be the association, corporation or person) plans to move activities under subsection (2)(a) further up the waste hierarchy, and as far as practicable, the dates by which they will do so,
 - (c) a statement of the progress that has been made under subsection (2)(b).
- (3) The requirement to prepare and provide a report under subsection (1) may end at a point mutually agreed to by the company (or as the case may be the association, corporation or person) and the Scottish public authority that is providing a grant or loan to the company (or as the case may be the association, corporation or person) but can not be for a period shorter than the period for which any such grant or loan may be outstanding.
- (4) For the avoidance of doubt, this section includes all functions of—
 - (a) Scottish Enterprise or Highland and Islands Enterprise under section 4 of the Enterprise and New Towns (Scotland) Act 1990,
 - (b) South of Scotland Enterprise under section 8 of the South Scotland Enterprise Act 2019.
- (5) Each of the following is a “reporting period”—
 - (a) the period beginning with the day after the company (or as the case may be the association, corporation or person) receives the grant or loan and ending 12 months later,
 - (b) each successive period of 12 months.

(6) In this section—

“Scottish public authority” has the same meaning as section 3(1)(a) of the Freedom of Information (Scotland) Act 2002,

“waste hierarchy” has the same meaning as Schedule 4 of the Waste Management Licensing (Scotland) Regulations 2011.>

Bob Doris

197 After section 7, insert—

<Corporate value chain accounting and reporting

- (1) Scottish Ministers must, by regulations, require large companies operating in Scotland to report on their scope 3 emissions.
- (2) Regulations under this section may provide for—
 - (a) the size and location of companies that regulations should apply to,
 - (b) the nature and timescales of reporting requirements,
 - (c) any guidance to be prepared and published on scope 3 reporting,
 - (d) monitoring and enforcement.
- (3) Regulations under this section must include financial institutions.
- (4) Regulations under this section must include emissions categories, as defined by the GHG Protocol, on—
 - (a) purchased goods and services,
 - (b) capital goods,
 - (c) fuel and energy related activities not already included under scope 1 or 2,
 - (d) upstream transportation and distribution,
 - (e) waste generated in operations,
 - (f) business travel,
 - (g) employee commuting,
 - (h) upstream leased assets,
 - (i) downstream transportation and distribution,
 - (j) processing of sold products,
 - (k) use of sold products,
 - (l) end of life treatment of sold products,
 - (m) downstream leased assets,
 - (n) franchises,
 - (o) investments.
- (5) Regulations under this section are subject to the affirmative procedure.
- (6) In this section—

“GHG Protocol” means the international standard for corporate accounting and reporting emissions,

“scope 3 reporting” means the corporate accounting and reporting standard for indirect emissions from value chain activities.>

Section 8

Sarah Boyack

- 198 In section 8, page 5, line 29, after <must> insert <—
- <(a) prepare and publish guidance for the purposes of this section, and
 - (b)>

Section 9

Sarah Boyack

- 199 In section 9, page 6, line 34, at end insert—
- <() Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) local authorities,
 - (b) SEPA,
 - (c) Zero Waste Scotland,
 - (d) suppliers having a function or interest in relation to single-use items as they consider appropriate.”>

Sarah Boyack

- 200 In section 9, page 6, line 34, at end insert—
- <() Before laying regulations under subsection (1), the Scottish Ministers must—
 - (a) lay a draft of the regulations before the Scottish Parliament for a period of 120 days, of which no fewer than 90 days must be days which the Scottish Parliament is not dissolved or in recess, and
 - (b) before finalising the regulations, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to charges for supply of single-use items for the time being appointed by virtue of the standing orders.”>

After section 9

Murdo Fraser

- 201 After section 9, insert—

<Fly-tipping offences

Fixed penalty notices for fly-tipping offences

- (1) The Environmental Protection Act 1990 is modified as follows.
- (2) In section 33A, in subsection (10)—
 - (a) the words from “substitute” to the end become paragraph (a),

(b) in paragraph (a), for “level 2” substitute “level 3”,

(c) after paragraph (a) insert—

“(b) substitute different amounts (not exceeding level 3 on the standard scale) in relation to different cases or descriptions of case.”.>

Murdo Fraser

202 After section 9, insert—

<Fly-tipping

Responsibility for removal of unlawfully deposited waste

- (1) In the Environmental Protection Act 1990, section 59 (powers to require removal of waste unlawfully deposited) is repealed.
- (2) Before section 60 of that Act insert—

“59B Removal of unlawfully deposited waste: Scotland

- (1) Where controlled waste is deposited in or on any private land in Scotland in contravention of section 33(1) of this Act, it is the responsibility of SEPA to—
 - (a) remove, or arrange for the removal of, the waste from the land,
 - (b) take steps with a view to eliminating or reducing the consequences of the deposit of the waste.
- (2) SEPA may recover any expenses reasonably incurred by it in exercising the responsibility under subsection (1) from—
 - (a) the person who deposited the waste in or on the land in contravention of section 33(1), or
 - (b) (if different), the owner or occupier of the land in or on which the waste is deposited, if the condition in subsection (3) is met.
- (3) The condition is that the owner or occupier knowingly caused or knowingly permitted the waste to be deposited in or on the land in contravention of section 33(1).
- (4) SEPA may not recover expenses under subsection (2) if a compensation order has been made under section 249 of the Criminal Procedure (Scotland) Act 1995 in favour of SEPA in respect of any part of those expenses.
- (5) Subsection (4) does not apply if the compensation order is set aside on appeal.
- (6) Any waste removed by SEPA under subsection (1) belongs to SEPA and may be dealt with accordingly.
- (7) Subsection (8) applies where—
 - (a) controlled waste is deposited in or on private land in Scotland in contravention of section 33(1),
 - (b) the owner or occupier of the land neither—
 - (i) deposited the waste in or on the land in contravention of section 33(1), nor
 - (ii) knowingly caused or knowingly permitted the waste to be so deposited in or on the land, and

- (c) the owner or occupier of the land—
 - (i) removes, or arranges for the removal of, the waste from the land, or
 - (ii) takes steps with a view to eliminating or reducing the consequences of the deposit of the waste.
- (8) The owner or occupier of the land may recover from SEPA any expenses reasonably incurred by the owner or occupier in doing the things mentioned in subsection (7)(c).
- (9) In this section—
 - “private land” means any land other than land—
 - (a) which is owned or maintained by a public authority, and
 - (b) to which the public is entitled to have access (with or without payment);
 - “SEPA” means the Scottish Environment Protection Agency.”>

Murdo Fraser

203 After section 9, insert—

<Information on fly-tipping offences

Information on fly-tipping offences

- (1) The Environmental Protection Act 1990 is modified as follows.
- (2) After section 71 insert—
 - “71A Information from authorities on unauthorised or harmful deposit, treatment or disposal etc. of waste: Scotland**
 - (1) The Scottish Ministers may require a relevant authority to them with such information as Ministers may specify about—
 - (a) cases where the authority has exercised any of its functions under section 59, and
 - (b) cases where the authority has exercised any of its functions in respect of any contravention of section 33(1)(a) or (c).
 - (2) In requiring information under subsection (1), the Scottish Ministers may specify—
 - (a) the period to which the information is to relate, and
 - (b) the date by which the relevant authority is to provide the information.
 - (3) The information required by Ministers under subsection (1) may include, in particular—
 - (a) the number of contraventions of section 33(1)(a) or (c) reported to the relevant authority,
 - (b) the location of contraventions of section 33(1)(a) or (c) reported to the authority,
 - (c) what action (if any) has been taken by the authority in response to the reported contraventions,

- (d) the number of fixed penalty notices issued by the authority under section 33A in response to the reported contraventions,
 - (e) the number of fixed penalties paid in response to such notices, and
 - (f) the number of reports made by the authority of offences under section 33(1)(a) or (c).
- (4) The Scottish Ministers may not exercise their power under subsection (1) in relation to a particular relevant authority more than once in any period of 12 months.
- (5) In this section, “relevant authority” means—
- (a) in relation to functions under section 59, a waste collection authority,
 - (b) in relation to functions in respect of contraventions of section 33(1)(a) or (c)—
 - (i) a local authority,
 - (ii) Loch Lomond and The Trossachs National Park Authority, or
 - (iii) a person specified by order made by the Scottish Ministers under section 33A(13).”.>

Murdo Fraser

204 After section 9, insert—

< Reporting on fly-tipping

Reporting on fly-tipping

- (1) The Scottish Ministers must, for each reporting year—
- (a) prepare a report containing the information mentioned in subsection (2),
 - (b) lay the report before the Scottish Parliament, and
 - (c) publish the report.
- (2) The information to be contained in the report is, for each local authority area—
- (a) the number of incidences of fly-tipping, or alleged fly-tipping offences, reported to an authority mentioned in subsection (4) during the reporting year,
 - (b) the number of fixed penalty notices given under section 33A(1) of the 1990 Act during the reporting year for a fly-tipping offence,
 - (c) the number of fixed monetary penalties and variable monetary penalties imposed by the Scottish Environment Protection Agency under the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (S.S.I. 2015/383) during the reporting year for a fly-tipping offence,
 - (d) the number of prosecutions brought during the reporting year for a fly-tipping offence,
 - (e) the number of convictions during the reporting year for a fly-tipping offence,
 - (f) the number and levels of fines imposed during the reporting year on conviction for a fly-tipping offence.
- (3) Each report must be laid before the Scottish Parliament and published as soon as practicable after the end of the reporting year to which it relates.

- (4) The authorities referred to in subsection (2)(a) are—
- (a) a local authority,
 - (b) a constable of the Police Service of Scotland,
 - (c) the Scottish Environment Protection Agency,
 - (d) a National Park authority established by virtue of a designation order under section 6 of the National Parks (Scotland) Act 2000,
 - (e) a person specified in an order under paragraph (c) of the definition of “authorised person” in section 33A(13) of the 1990 Act,
 - (f) the Lord Advocate,
 - (g) a procurator fiscal.
- (5) A “reporting year” for the purposes of this section is—
- (a) the period of one year beginning 6 months after the day on which this section comes into force, and
 - (b) each subsequent period of one year.
- (6) In this section—
- “the 1990 Act” means the Environmental Protection Act 1990,
 - “fly-tipping” means contravention of section 33(1) of the 1990 Act,
 - “fly-tipping offence” means an offence under 33(6) of the 1990 Act.>

After section 12

Sarah Boyack

205 After section 12, insert—

<National targets relating to household waste recycling: Scotland

- (1) The Environmental Protection Act 1990 is modified as follows.
- (2) After section 44B, insert—

“44C National targets relating to household waste recycling: Scotland

- (1) The Scottish Ministers must by regulations set a national target in relation to recycling of household waste and reuse of household items.
- (2) Regulations under subsection (1) may in particular—
 - (a) specify indicators to monitor the progress towards and achievement of local authority targets,
 - (b) confer functions on SEPA to monitor the progress towards and achievement of targets,
 - (c) make provision requiring waste collection authorities to provide certain information and keep certain records,
 - (d) set timescales for targets.

- (3) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1), the Scottish Ministers must consult publicly, and in particular solicit the views of—
 - (a) local authorities,
 - (b) SEPA,
 - (c) such persons as they consider appropriate.
- (4) Regulations under subsection (1) are subject to the affirmative procedure.”>

Section 13

Sarah Boyack

- 206 In section 13, page 16, line 23, after <authorities,> insert <so long as the provisions do not contravene the national targets under section 44C,>

After section 17

Maurice Golden

- 207 After section 17, insert—

<Waste reprocessing infrastructure report

Waste reprocessing infrastructure report

- (1) The Scottish Ministers must prepare and publish a waste reprocessing infrastructure report.
- (2) A waste reprocessing infrastructure report is to set out the Scottish Ministers policies and proposals for the use and development of waste reprocessing infrastructure.
- (3) A waste reprocessing infrastructure report must—
 - (a) map out—
 - (i) current waste infrastructure,
 - (ii) planned waste infrastructure,
 - (iii) any proposed infrastructure by the Scottish Ministers or other relevant bodies,
 - (b) contain a strategy to—
 - (i) develop waste management data, for each waste management option used in Scotland,
 - (ii) reduce the proportion of recyclable materials in the residual waste stream,
 - (iii) strengthen local and community engagement and trust,
 - (iv) strengthen existing requirements for pre-treatment, in particular to remove as much recyclable material as feasible, with a particular focus on plastics,
 - (v) work in partnership with industry to deploy combined heat and power for as many existing incineration facilities,
 - (c) contain targets for resource and waste management,
 - (d) report on greenhouse gas emissions for each waste management option.

- (4) In preparing the waste reprocessing infrastructure report, the Scottish Ministers must have regard to any National Planning Framework published by them under the Town and Country Planning (Scotland) Act 1997.
- (5) The Scottish Minister must lay a waste reprocessing infrastructure report before the Scottish Parliament.
- (6) The Scottish Ministers must prepare and publish the waste reprocessing infrastructure report before the expiry of one year beginning with the day after Royal Assent.>