

# **CIRCULAR ECONOMY (SCOTLAND) BILL**

## **[AS AMENDED AT STAGE 2]**

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### **SUPPLEMENTARY FINANCIAL MEMORANDUM**

#### **INTRODUCTION**

1. As required under Rule 9.7.8B of the Parliament’s Standing Orders, this Supplementary Financial Memorandum is published to accompany the Circular Economy (Scotland) Bill, introduced in the Scottish Parliament on 13 June 2023.

2. This Supplementary Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament. It should be read in conjunction with the original Financial Memorandum published to accompany the Bill as introduced and the Scottish Government’s responses of 14 March 2024 to the Finance and Public Administration Committee<sup>1</sup> and Net Zero, Energy and Transport Committee<sup>2</sup> Stage 1 reports.

3. The purpose of this supplementary Financial Memorandum is to set out the expected costs associated with the new and amended provisions included in the Bill following the amendments made at Stage 2. This document addresses those amendments with anticipated or potential cost implications. Amendments agreed at Stage 2 which are not covered in this supplementary Financial Memorandum are considered to not significantly or materially affect the assumptions in the original Financial Memorandum.

#### **INFORMATION ON FLY-TIPPING OFFENCES**

##### **Costs on the Scottish Administration**

4. Section 9B of the Bill as inserted at Stage 2 modifies the Environmental Protection Act 1990 (the “1990 Act”), to insert new section 71A, granting powers to Scottish Ministers to require information from local authorities and the Loch Lomond and the Trossachs National Park Authority in relation to the exercise of any of their functions in relation to an incident of fly-tipping under section 33(1)(a) or (c) of the 1990 Act and, in relation to a local authority only, the exercise of their powers under section 59 of the 1990 Act in relation to unlawfully deposited waste. This would allow Scottish Ministers to request a range of information on fly-tipping offences once in a 12-month period per authority. This is not expected to increase costs for Scottish Government directly. It is anticipated that any costs of collating and making this information available publicly would be resourced as part of business as usual and met within existing resources.

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<sup>1</sup> [Letter from the Minister for Green Skills, Circular Economy and Biodiversity to the Convener of the Finance and Public Administration Committee, 14 March 2024 \(parliament.scot\)](#)

<sup>2</sup> [Letter from the Minister for Green Skills, Circular Economy and Biodiversity to the Convener of the Net Zero, Energy and Transport Committee, 14 March 2024 \(parliament.scot\)](#)

### **Costs on Local Authorities**

5. It is not possible at this stage to provide definitive estimates about the extent of any additional costs or benefits to local authorities that would be associated with the introduction of a requirement to provide information on fly-tipping offences, as it will depend on the final scope and content of reporting requirements and the range of information currently collected by each local authority. Available evidence suggests some local authorities already collect relevant data on fly-tipping offences, given their existing enforcement role, although this varies across local authorities. For illustrative purposes, using the cost of £47,000 - £57,000 for a senior enforcement officer (as per letter to the Finance and Public Administration Committee of 14 March 2024) and an estimate of the time involved of up 2.5 – 12.5 days (based on estimates detailed in the original Financial Memorandum for reporting on waste and surplus) this would result in a cost of £452-£2,740 per authority using existing systems.

6. It is expected that there would also be benefits to local authorities in meeting national reporting requirements. There is potential for longer-term savings, as better data could help improve fly-tipping interventions, which could reduce clean-up and disposal costs. Fly-tipping clean-up costs for local authorities were estimated to be around £12.8m in the 2023 Litter and Fly-tipping – Scale and Cost research report<sup>3</sup>.

### **Costs on other bodies, individuals, and businesses**

7. The provision would also enable Scottish Ministers to require information from Loch Lomond and the Trossachs National Park Authority (LLTNPA). As with local authorities, this organisation may therefore incur costs from compiling information on fly-tipping and submitting it to Scottish Government. LLTNPA have indicated that this would likely require 0.5 days to compile based on its existing systems.

Table 1 below sets out details of costs for this section:

	<b>Year 1 (£)</b>	<b>Year 2 (£)</b>	<b>Year 3 (£)</b>	<b>Total (£)</b>
Costs on Local Authorities	452 – 2,740 (per local authority)	452 – 2,740 (per local authority)	452 – 2,740 (per local authority)	<b>1,356 – 8,220 (per local authority)</b>
Costs on other bodies (LLTNPA)	90 - 110	90 - 110	90 - 110	<b>270 - 330</b>

## **TARGETS FOR WASTE COLLECTION AUTHORITIES RELATING TO HOUSEHOLD WASTE RECYCLING**

### **Costs on Local Authorities**

8. The Bill as introduced included provisions (sections 13(2)(d) and 13(2)(h)) enabling Scottish Ministers to impose financial penalties on a local authority if its statutory recycling targets were not met. At Stage 2, following discussion with the Convention of Scottish Local Authorities,

<sup>3</sup> [Litter and flytipping: scale and cost - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2023/06/2023-06-20-Litter-and-flytipping-scale-and-cost.pdf)

these provisions were removed in favour of developing a non-legislative improvement programme in relation to household recycling instead.

9. Paragraphs 59 and 60 of the original Financial Memorandum, which cover the impact on local authorities of financial penalties, therefore no longer apply and should be disregarded. This does not impact on the projected costs for local authorities. Work to develop any improvement programme is covered within the work to develop new targets in partnership with local government, as set out at paragraph 58 of the original Financial Memorandum.

## **OFFENCES RELATING TO THE USE ETC OF INJURIOUS ARTICLES OR SUBSTANCES: FIXED PENALTY NOTICES**

10. Section 16A of the Bill as inserted at Stage 2 responds to requests from local authorities for powers to issue fixed penalty notices in relation to offences in regulations under section 140 of the Environmental Protection Act 1990 (the 1990 Act), which provides the power to prohibit or restrict the use, supply or storage of environmentally harmful items (such as certain single-use plastic items or single-use vapes).

### **Costs on the Scottish Administration**

11. Scottish Government resource would be required to develop regulations to enable local authorities to issue the fixed penalty notices in relation to offences in existing regulations and it is anticipated that these would be resourced as part of business as usual and met within existing resources. Using the standard figures from the original Financial Memorandum for development of regulations, estimated costs would be around £20,000 for consultation and publication and approximately £67,000 for a total of 1 FTE staff, incorporating policy, analytical and legal support.

12. The exact costs will be determined based on the details of the regulations. For example, the Scottish Government is working with trading standards representatives, which will be responsible for enforcing compliance with a proposed ban on the sale and supply of single use vapes in Scotland. Feedback from Trading Standards officers and two public consultations was that Fixed Penalty Notices would act as an additional mechanism to enable effective and proportionate enforcement. The ability for Scottish local authorities to issue the fixed penalty notices would also enable greater parity with enforcement powers in other parts of the UK.

### **Costs on Local Authorities**

13. By way of example, the proposed charge for a fixed penalty notice for the sale or supply of a single use vape would be £200, rising to a maximum of £500 for repeat offences. Data from one local authority about how much time enforcement officers spend issuing litter fixed penalty notices, with and without using CCTV cameras, suggests a cost of between £34 and £102 per notice. Even accounting for the payment rate for fixed penalty notices varying between 46%-85% (in line with letter of 14 March 2024 to the Finance and Public Administration Committee), costs are expected to be offset by the revenue raised from each notice.

14. The Scottish Government will continue to work with trading standards representatives and COSLA to understand any interactions with existing and potential enforcement requirements in relation to vaping products and other environmentally harmful items addressed in regulations made

under section 140 of the 1990 Act, and costs and benefits will be set out when bringing forward relevant regulations.

Table 2 below sets out the summary of costs for this change to the Bill:

	<b>Year 1 (£)</b>	<b>Year 2 (£)</b>	<b>Year 3 (£)</b>	<b>Total (£)</b>
Costs on Scottish Administration	67,000 (resource – regulations) 20,000 (publication)	0	0	<b>87,000</b>
<b>Total</b>	<b>87,000</b>			<b>87,000</b>

## **ZERO WASTE SCOTLAND: APPLICATION OF PUBLIC BODIES LEGISLATION**

### **Costs on the Scottish Administration**

15. The provisions in section 17A and the schedule of the Bill, as inserted at Stage 2, ensure that relevant legislation applicable to Scotland’s other public bodies will also apply to Zero Waste Scotland. This follows the classification decision made by the Office for National Statistics in April 2023 that the organisation be classified as a public sector organisation, being largely funded and directed by Scottish Ministers. As stated in the original Financial Memorandum, this change of classification will not represent a material difference to Scottish Government budgets.

### **Costs on other bodies, individuals and businesses**

16. The statutory duties coming into effect following the planned passage of the Bill will form part of Zero Waste Scotland’s existing corporate resourcing plan. The organisation already mirrors procedural requirements across a number of the proposed duties on a voluntary basis, in advance of any statutory requirements coming into effect, and these provisions will support a consistent approach with other public bodies. Furthermore, public body status will provide more opportunity to work collaboratively with other bodies to develop shared services and efficiencies, consistent with the Scottish Government’s programme of public service reform.

17. Within Zero Waste Scotland’s existing corporate resourcing plans for 2024/25, an allocation of up to £0.25m is in place to support Zero Waste Scotland’s costs associated with the status transition work in the current financial year. This might include legal costs, alongside training and specialist support to prepare the organisation to meet the proposed duties. This allocation has not had any impact on the delivery programme agreed between Scottish Government and Zero Waste Scotland for 2024/25.

Table 3 below sets out a summary of costs for this change to the Bill:

	<b>Year 1 (£)</b>	<b>Year 2 (£)</b>	<b>Year 3 (£)</b>	<b>Total (£)</b>
Costs on Other Bodies (Zero Waste Scotland)	250,000	0	0	<b>250,000</b>



*This document relates to the Circular Economy (Scotland) Bill (SP Bill 31A) as amended at Stage 2*

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