

Net Zero, Energy and Transport Committee

28th Meeting, 2023 (Session 6)

Tuesday, 3 October 2023

Circular Economy (Scotland) Bill

Introduction

1. [The Circular Economy \(Scotland\) Bill](#) was introduced on 13 June 2023 and was referred to the Net Zero, Energy and Transport Committee for Stage 1 scrutiny. The deadline for Stage 1 of the Bill's legislative process is 26 January 2024.

- [Circular Economy \(Scotland\) Bill – as introduced](#)
- [Policy Memorandum](#)
- [Explanatory Notes](#)
- [Delegated Powers Memorandum](#)
- [Financial Memorandum](#)
- [Statement on Legislative Competence](#)

2. According to policy memorandum accompanying the Bill, a circular economy—

- “cuts waste, carbon emissions and pressures on the natural environment;
- opens up new market opportunities, improves productivity, increases self sufficiency and resilience by reducing reliance on international supply chains and global shocks; and
- strengthens communities by providing local employment opportunities and lower cost options to access the goods Scotland needs.”

3. The Bill as introduced contains 20 sections, proposing a number of statutory measures to help deliver a circular economy. The policy memorandum highlights specific provisions in the Bill relating to—

- **Circular economy strategy:** establishes a responsibility for the Scottish Government to publish a circular economy strategy at least every 5 years. The policy memorandum says this aims to “direct national policy on the circular economy”.
- **Circular economy targets:** provides regulation-making powers for the Scottish Ministers to impose statutory targets on itself for making progress towards delivering a circular economy.
- **Restrictions on the disposal of unsold consumer goods:** introduces new powers for the Scottish Government to limit the disposal or destruction of

unsold goods. The policy memorandum says this measure aims to support a reduction “in wasteful practice and unsustainable behaviour” for items such as clothing material and electrical appliances.

- **Charges for single-use items:** creates new regulation-making powers for the Scottish Government to introduce a minimum charge for certain single-use items. The policy memorandum says the purpose of this measure is to reduce consumption of these items. The Scottish Government has said that it intends to utilise this new power to introduce a minimum charge for disposable beverage cups.
- **Householder’s duty of care in relation to waste:** includes provisions creating a criminal offence for householders breaking their obligations around waste as set out in the Environmental Protection Act 1990. The Bill also creates a new regime of fixed penalties for local authorities to enforce this offence.
- **Household waste:** introduces new obligations for local authorities to comply with a code of practice on recycling. The Bill also provides powers for the Scottish Government to set statutory recycling targets for local authorities. The Scottish Government has said these targets would apply from 2030.
- **Littering from vehicles:** the Bill establishes a new civil penalty regime that will make the owner of a vehicle liable to pay a penalty charge for offences committed regarding littering from that vehicle.
- **Enforcement powers in respect of certain environmental offences:** the Bill provides a new enforcement power for SEPA and local authorities to seize vehicles involved in waste crime.
- **Reporting of waste data:** the Bill places new requirements for businesses to publicly report information relating to waste and surplus.

4. A Briefing on the Bill has been produced by the Scottish Parliament Information Centre (SPICe)—

- [SPICe Stage 1 Bill Briefing on the Circular Economy \(Scotland\) Bill](#)

NZET Committee scrutiny of the Bill

5. The Committee first considered its approach to scrutiny at its meeting on 27 June.

- [Read the minutes of the meeting on 27 June 2023](#)

6. It agreed to undertake a dual approach to its consultation on the Bill. The Committee hosted an online discussion on the themes arising in the Bill in addition to seeking detailed views on the intended operation of the specific provisions. The Committee also agreed initial panels of witnesses it wished to hear from.

7. At its meetings on 12 and 26 September, the Committee considered and agreed to undertake fact-finding visits to further explore the issues arising from the Bill.

Call for Views

8. The call for views launched on 29 June and closed on 1 September. Responses can be found on the Committee's website.

- [Read responses to the call for evidence on Citizen Space.](#)
- [Read responses to the online discussion.](#)

Oral evidence

9. On 26 September, the Committee commenced its oral evidence taking on the Bill by hearing from a panel of representatives from Scotland's business community to discuss their views on the Bill.

- [Watch the meeting on 26th September 2023](#)

Meeting on 3 October

10. At its meeting on 3 October, the Committee will hear from a panel of environmental regulators. The aim of this session is to discuss their views on the environmental impact of the provisions in the Bill, including how those on enforcement of waste and environmental crime might operate in practice.

11. The Committee will hear from—

- Iain Gulland, Chief Executive Officer, Zero Waste Scotland;
- Nick Halfhide, Director of Nature and Climate Change, NatureScot;
- David Harley, Chief Officer, Circular Economy, Scottish Environment Protection Agency

12. The Committee received written submissions from—

- Zero Waste Scotland (**Annexe A**)
- NatureScot (**Annexe B**)
- Scottish Environment Protection Agency (**Annexe C**)

Next steps

13. The Committee will continue its consideration of the Bill over the coming months by hearing from a number of panels of witnesses. It will also undertake a programme of engagement work relating to the Bill.

Clerks

Net Zero, Energy and Transport Committee

Annexe A: Submission of written evidence by Zero Waste Scotland

About Zero Waste Scotland

Zero Waste Scotland is a not-for-profit environmental organisation, largely funded by the Scottish Government. Earlier this year, the ONS confirmed that Zero Waste Scotland should be formally classed as a public sector organisation. The transition process to a public body, shaped by the Zero Waste Scotland Board and the Scottish Government, is anticipated to complete in summer 2024.

We exist to lead Scotland to use products and resources responsibly, focusing on where we can have the greatest positive impact on both the current climate and nature emergencies. In achieving this we will also support a thriving economy which creates new opportunities for investment, increased competitiveness and innovation in Scottish businesses, reduces pressure on our environment, and improve prosperity for people through an inclusive economy which benefits everyone's wellbeing.

Furthermore, Zero Waste Scotland has actively supported the development of Scottish Government thinking on the Circular Economy Bill. This involvement encompassed supporting the Scottish Government with the development of the required impact assessments to accompany the Bill consultation and laying of Bill in Parliament, along with providing evidence through three reports - namely "Insights into Statutory Obligations of Circular Economy Strategies", "Target Setting Legislation", "Proposals for a Circular Economy Indicators Framework in Scotland". Additionally, we have played a role in enhancing communication efforts concerning the Bill and its consultation through engagement with stakeholders, explaining the Bill to different audiences, and promoting and hosting webinars. We look forward to continuing to support the Scottish Government on the Bill's parliamentary process and beyond.

The Evidence

According to Scotland's [Circularity Gap Report](#), the current production and consumption model in the nation results in only 1.3% of valuable resources cycling back into the economy after use, indicating that 98% of Scotland's resources come from virgin sources. Consequently, this leads to significant carbon emissions, ongoing over-extraction of natural resources resulting in biodiversity loss, and may exacerbate inequality. However, by embracing a closed-loop economic system and implementing circular economy principles, Scotland can achieve multiple benefits, including reducing carbon emissions by [up to 44%](#), mitigating climate change, opening up new business opportunities, and ensuring sufficient resources for the wellbeing of its people all the while being international ambassadors for the circular economy.

The Circular Economy Bill, although not a single solution to close the circularity gap, does represent a significant step in the right direction as it offers a pivotal guiding framework for a more sustainable, regenerative, and restorative economic system. The Bill's proposals should seek to provide powers that move the circular economy beyond waste reduction and environmental benefits, as doing so enables the Bill to

provide the foundation for a meaningful shift in the way Scotland produces and consumes across its economy.

Furthermore, with [Scottish citizens'](#) increasing awareness of climate change and its impacts on our daily lives, the Bill's focus of better managing our resources, be that at the start of the supply chain or where it becomes waste, will play an important role to address these concerns. Therefore, the Bill should clearly articulate the holistic nature of a circular economy, making its vision relatable to a range of stakeholders and convince them that they too have a stake in the success of a more circular Scotland.

Zero Waste Scotland is supportive of the Bill for the following key reasons:

1. **The Circular Economy Bill is an opportunity for more than just environmental change**, it should also be seen as a foundation for net-zero economic approaches and in supporting wider Scottish Government aspirations such as the Just Transition and a Wellbeing Economy.
2. **The Circular Economy Strategy presents a vital opportunity to create a co-ordinated and holistic vision** for how Scotland continues to embed a circular economy ethos across its supply chains, businesses, and citizens; working across Government and in alignment with other key policies.
3. **A well-researched and evidence-based monitoring framework holds the potential to establish future, targeted circular economy goals** that effectively stimulate markets, guide policy directions, and actively engage citizens.
4. **The Circular Economy Bill enables the Circular Economy Route Map and Scotland's Litter and Fly Tipping Strategy** which support wider provisions to better manage our resources and prevent loss of valuable materials to landfill or as litter.

Further details of each can be found in the following pages.

1. **General Aspects:** Are there any areas not addressed (for example on waste reduction and reuse) by the Bill that you believe should be included?

Zero Waste Scotland supports the general principles of the Circular Economy Bill.

To produce and consume responsibly within the planetary boundaries, Scotland must adhere to core characteristics of the circular economy. These characteristics entail prolonging ownership of materials and products, promoting the circulation of materials and products within activities and geographic regions, and establishing ongoing material loops to prevent waste and extract full value from resources. When combined, these characteristics ensure that very little is wasted and that everything has value. Although the proposals in the Bill do not directly realise these characteristics, the enabling powers promote general circular economy principles which, when developed and implemented in a timely manner, will help action effective policies. The Circular Economy Strategy will be particularly valuable in

implementing core circular economy principles while also addressing areas not directly mentioned in the Bill such as waste reduction and reuse.

Zero Waste Scotland recognises and advocates the centrality of the Circular Economy Bill to other Scottish Government ambitions, policies, and outcomes.

The circular economy intersects with numerous ambitions, policies and outcomes of the Scottish Government, making it a comprehensive and far-reaching concept. Currently, the circular economy is predominantly understood in the context of waste management while its potential in other policy areas is often overlooked. The circular economy offers a valuable means to achieve several goals. Nationally, it aligns with initiatives such as the National Strategy for Economic Transformation (NSET), the National Planning Framework (NPF) 4, Just Transition Plans, and the Environment Strategy, among others (for more information see Q.2 on Circular Economy Strategy). Moreover, its influence extends vertically to regional and local authority policies, including Community Wealth Building, Regional Economic Partnerships, and Green Freeports. It is crucial to seize the opportunities presented by the Bill to effectively communicate the complexity and multi-level nature of this policy area through a single comprehensive legislation.

Zero Waste Scotland encourages the consideration of the Circular Economy Bill within a global context to ensure a successful national just transition to a circular economy.

Considering the Circular Economy Bill and its proposals in the global context is vital due to significant material flow across borders. The overarching objective of the Bill is to shift towards a circular model, which necessitates changes in production and consumption patterns. However, it is important to recognise that many [low- and middle-income countries](#) heavily rely on our demand for goods, such as textiles, to support their economies. A transition to more circular and localised business models could have negative socio-economic implications for them. Furthermore, Scotland imports goods and materials whose production, and consequently carbon and material footprint, we have very little control of. Both examples highlight global implications from future circular economy policies. For this reason, it is important that we seek international co-operation, both within the UK and with global partners, combined with collaboration across value chains to ensure we drive forward the circular economy in a way which maximises global benefits and minimises negative impacts.

Lastly, Zero Waste Scotland urges the Scottish Government to consider the Circular Economy Bill as an opportunity to design a circular economy that ensures justice, equality, and balance across social, environmental and economic dimensions – the ‘triple bottom line’. For the Bill to be truly successful, it must be ambitious for the whole of Scotland, from busy cities and towns to our more rural landscapes from the south of Scotland to the highlands and islands. Achieving this goal will entail applying both procedural justice (i.e., fair decision-making) and distributive justice (i.e., equitable distribution of resources, opportunities, and benefits) in the development and implementation of the Circular Economy Bill proposals to ensure the social, environmental and economic needs of Scotland are met.

2. **Circular Economy Strategy:** Is a statutory requirement needed for a circular economy strategy?

Zero Waste Scotland supports a statutory requirement for a circular economy strategy, furthermore, we believe the provisions for the strategy in the Circular Economy Bill should be as broad as possible.

We believe that a statutory obligation to create a Circular Economy Strategy is pivotal due to the significance it would carry in political and civic life. The statutory obligation can provide clarity on the roles and responsibilities of Ministers, ensure the strategy remains a live document across political terms, and assist citizens to hold the government accountable for their commitment.

The strategy itself would also yield various benefits. According to Zero Waste Scotland's report, "[Insights into Statutory Obligations of Circular Economy Strategies](#)," a Circular Economy strategy would serve as a repository for targets, prioritise essential measures for adoption, and establish a framework for comprehending other policies and strategies (e.g., NSET, Environment, Community Wealth Building, Scotland's Biodiversity Strategy etc.). Moreover, it would address challenges faced by the circular economy, such as data and knowledge gaps, ensure consistent understanding among all stakeholders, signal the market's direction, and promote circular practices beyond waste management. Simply put, a holistic strategy is an important and necessary requisite to achieving a circular economy.

Furthermore, Zero Waste Scotland recommends that the statutory obligation in the Bill be as broad as possible. This approach enables the Scottish Government to adapt future strategies based on newly released or updated data, evidence, and evaluations. It will also ensure that the Circular Economy Strategy remains relevant to the prevailing social and economic contexts at that time. Data and evidence can be leveraged from, for example, Zero Waste Scotland's [Material Flow Accounts \(MFAs\)](#) and [Circularity Gap Report](#) to inform high impact materials and sectors, which again, are likely to change as the circular economy transition takes place in the coming years as a result of the waste reduction and reuse efforts linked to the Circular Economy Route Map interventions.

Zero Waste Scotland believes that the first iteration of the Circular Economy Strategy should embody the following characteristics:

Ambition. The primary ambition of the Circular Economy Strategy should be to move Scotland from addressing underperformance in a circular economic system to achieving high-class performance. This will require implementing large-scale, significant, and where possible, rapid systems changes integrated across society, from the economy to governance, education, culture and beyond. It will also require embracing emerging technologies, systems and process upgrades. And consequently, all Scottish Government directorates will need to play an integral role in leadership.

The waste hierarchy. The Strategy presents a real opportunity to change the way everyone – from businesses to citizens – currently view valuable resources as waste. This shift requires interventions from the start of a product's life cycle focusing

on design, manufacturing, and procurement – stages involving mainly producers and businesses. Equally important are activities that help extend the life of a product through reuse and repair, as well as recycle so that the full value can be extracted from materials – stages involving mainly consumers and citizens. This comprehensive approach supports the entire supply chain and ensures the value of resources are spread across all members of society.

‘S.M.A.R.T.’ The Circular Economy Strategy should be a multi-year strategic document that outlines long-term visions, mid-term objectives for these visions, and associated short-term actionable tasks such as design and implementation timelines of delivery plans to achieve the objectives. Given the ultimate aim is to realise a circular economic system, there is value in mirroring NSET's delivery framework. This involves defining visions and ambitions, establishing programs of actions, and determining measures of success. By adopting a similar approach, both economic documents can complement and reinforce each's initiatives concerning people and culture, market opportunities, businesses and regions, workforce, and societal equality.

Intersectional. As mentioned earlier, the circular economy is all-encompassing and because of this it is important to consider how the Circular Economy Strategy interacts with other strategies and explicitly identify these within the strategic document itself. One example is Scotland's Environment Strategy which is working to similar outcomes such as promoting the wide use and reuse of resources and ending the throwaway culture, as well as aiming for a sustainable international footprint. Another example is the Energy Strategy and Just Transition Plan which seeks to responsibly produce and use low carbon energy but also holds the [opportunity to deploy renewable infrastructure in a circular way](#). And a final example is the UK's Critical Mineral Strategy which outlines a list of R&D initiatives to ensure continued access to current and future critical mineral resources. An extended list of strategies that have been known to be linked with circular economy strategies internationally can be found in Zero Waste Scotland's report, "[Insights into Statutory Obligations of Circular Economy Strategies](#)".

3. **Circular Economy Targets:** Are statutory circular economy targets needed?

Zero Waste Scotland supports setting primary powers for circular economy targets.

Transforming the Scottish economy to be more circular requires more than priorities and ambition. It also requires precisely defined targets which help to hold all stakeholders to account - from Government to businesses and citizens. Simply put, what is measured is achieved, and the Circular Economy Bill paves the way for many future achievements.

However, Zero Waste Scotland's report, "[Target Setting Legislation](#)," indicates that setting legislation for targets can be complex and could have unintended consequences, such as mistrust from the public, if targets are introduced before robust research and evidence gathering has taken place. Therefore, before committing to and implementing legally binding circular economy targets, it is essential to conduct thorough research and evaluation into the design of appropriate indicators, availability of data to track the progress and the timeframe for tracking

progress, amongst other considerations. For this reason, as a first step, Zero Waste Scotland supports the proposal in the Bill to establish powers for target setting in primary legislation. Once the required research for targets and indicator frameworks, their consequences, and the ability to measure progress has been conducted as a priority, the Scottish Government can then quickly move to identifying and implementing distinct targets in secondary legislation.

For secondary legislation, Zero Waste Scotland would support circular economy targets that span across the waste hierarchy.

Currently, the Scottish Government has implemented non-statutory waste reduction targets (to be reached by 2025) within its [Managing Waste Policy](#). These include reducing total waste arising in Scotland by 15% against 2011 levels, reducing food waste by 33% against 2013 levels, recycling 70% of remaining waste, and sending no more than 5% of remaining waste to landfill. However, currently, we are predominantly aiming our targets at the latter stages of the waste hierarchy, which means we fail to incentivise, measure, and monitor a large portion of actions that could help keep our valuable resources cycling back into the economy. This also implies that we are emitting the associated carbon emissions related to our current linear consumption habits, which undermines our 2045 net zero target. To improve our approach, the Scottish Government should consider targets at earlier stages of products' lifecycles, including the initial design period [where 80% of products' impacts can be influenced](#), to better promote the circular economy and align us more effectively with our net zero goal. And, if Scotland were to legislate for circular economy targets across all circular economy principles (prevent, reduce, reuse, and recycle), it would be one of the first European nations to do so.

Zero Waste Scotland's report on "[Target Setting Legislation](#)" found the following circular economy related targets in international legislations and strategies:

- **Ireland Circular Economy Legislation.** Enabling powers for upcoming targets including material consumption and use of non-recyclable materials, reusable products, repair and reuse of products and materials.
- **EU Circular Economy Action Plan.** This is not a legally binding document and thus targets are not statutory, but the following targets have been highlighted as needed: waste reduction (specific focus on packaging, plastic, and food waste), material recovery and carbon reduction for specific sectors.

Again, it is important to note that while these targets have been, or will soon be, adopted by other countries, thorough research and evidence is still required to determine what will be the most effective targets to measure Scotland's progress towards a circular economy.

Zero Waste Scotland encourages the adoption of a robust monitoring framework alongside targets that encompasses environmental, economic, and social indicators.

The circular economy comes with many benefits. It's good for the environment by reducing our demand for raw materials, it's an opportunity for businesses to get maximum value out of their resources, it keeps down costs through reducing material

inputs, and it's beneficial to people by providing opportunities for communities, skills, jobs, and local economic benefits. Indicators can provide a quantifiable way to measure how progress is being made towards achieving circular economy targets in a manner that realises these benefits.

Zero Waste Scotland's report, "[Proposals for a Circular Economy Indicators Framework in Scotland](#)", discusses a range of possible indicators that can assess environmental, economic, and social progress in relation to the circular economy. A full list of potential indicators can be found in the report, but examples include a material footprint, generation of waste, and carbon intensity of materials all of which would also support Scotland's national outcomes framework.

However, the research demonstrated that current indicators are largely assembled to track activities such as recycling which result in environmental benefits, with currently less monitoring for economic and social benefits. The report suggests that being able to better monitor activities such as reuse and repair, would highlight examples of where circular practices can help realise economic and social benefits. Therefore, additional indicators will be needed to ensure progress is being made across the triple bottom line of environment, social and economy dimensions.

Furthermore, the report outlines an approach to selecting a range of indicators that will be relevant across the transition stages to a circular economy. This includes indicators which can track the rise in the adoption of circular practices ('transitional indicators'), such as percentage of circular jobs, or percentage of public procurement with circular economy criteria; indicators which are outcome and measurement based ('hard indicators'); as well as indicators that will require data collection systems and estimation methods to be developed ('prospective' indicators). A political will and (for select proposed indicators) collaboration with other parts of the UK will be required if they are to be developed and adopted.

It is worth noting that adopting a large range of indicators presents challenges due to the limited availability of data for the circular economy, which is still at an early stage. A Circular Economy Strategy that prioritises the development of data and digital technologies to enable the creation of such metrics would be invaluable in monitoring, measuring, and, most importantly, achieving the benefits brought by the circular economy.

4. Other proposals:

Restrictions on the disposal of unsold consumer goods:

Zero Waste Scotland supports primary powers in the Circular Economy Bill for restrictions on the disposal of unsold consumer goods as it plays an important role in developing a wider product stewardship approach.

Taking primary powers through the Bill for restrictions on the disposal of unsold consumer goods would allow for future regulation to be developed as part of a wider product stewardship approach. Such an approach would be aimed towards ensuring products and materials are kept in use for as long as possible, and would directly contribute towards consumption reduction, including any applicable future targets (as new markets or business models are found for products that would otherwise be

destroyed). Further work will be required as secondary legislation is developed such as identifying organisations to which a ban would apply, the scope of goods, and appropriate enforcement action.

Charges for single-use items:

Zero Waste Scotland supports primary powers in the Circular Economy Bill for charges for single-use items as it plays an important role in developing a wider product stewardship approach.

A charge on unnecessary products provides a strong incentive for suppliers to choose reusable alternatives, or to avoid certain products altogether. It acts as both a starting intervention for reducing consumption of unnecessary products, as well as a demonstration of how policies and wider activities can interlink to develop a product stewardship approach. Charges can raise awareness of the environmental impacts of the products we use, helping to reshape our relationship with resources and move to more sustainable models of consumption.

Reporting on waste and surpluses:

Zero Waste Scotland supports powers taken for the mandatory reporting of surplus and waste to develop data on the material stock available to be reused or recycled.

Zero Waste Scotland believes mandatory reporting of surplus and waste, specifically for the least circular products and materials, is crucial to understanding how much waste is being produced, or volume of stock being lost to long-term storage, by businesses and organisations in Scotland. It will help to provide timely, accurate and transparent data; without understanding this it is difficult to know where to focus future actions that will have real impact. The process of measuring itself requires a business to engage with the concept of waste, which can naturally lead to action once the scale and cost of the problem is revealed.

Household Waste, Household Recycling, Littering, and Enforcement:

Zero Waste Scotland supports the proposals on household waste, household recycling, littering, and enforcement as they are key components of ongoing Zero Waste Scotland circular economy support for local authorities, support and the National Litter and Fly Tipping Strategy aimed at achieving waste, recycling, and emission reduction targets.

[Evidence indicates](#) that many householders fail to properly segregate recyclable waste, leading to higher recycling collection costs and, in some cases, the need to incinerate or landfill the entire load due to contamination. For this reason, Zero Waste Scotland advocates strengthening statutory obligations for householders to optimise waste and recycling services while empowering LAs with effective tools to address non-compliance. At the same time, to address this issue, Zero Waste Scotland supports granting the Scottish Government powers to impose additional requirements on local authorities for household collection services building on the Scottish Household Recycling Charter and Code of Practice. Additionally, Zero

Waste Scotland suggests powers to prevent littering and fly tipping, aligning with the "litter enforcement" objective of the National Litter and Fly Tipping Strategy.

Annexe B: Submission of written evidence by NatureScot

Circular economy strategy

Is a statutory requirement needed for a circular economy strategy?

- We agree that it is, so that all Governments and all parts of Government strive to embed the economy in nature, as set out in Patha Dasgupta's review on The Economics of Biodiversity for The Treasury.
- A circular economy is the only pathway to simultaneously achieve net zero while building resilience to better adapt to the risks of a changing climate, enhance the state of nature, ensure water, and food security and address inequalities, including those associated with the cost of living.

Is there anything else you would like to say about a circular economy strategy? (Section 1 – 5)

- We welcome references to the Climate Change Plan and Environment Strategy and 'other relevant plans and strategies deemed relevant' (Section 1.5), and the implied long view to 2045 and beyond. This should give clear signals to the public and private sectors to guide investments, policy and practice. The strategy would be stronger if it were explicitly aligned to the 5-yearly carbon budget horizons required of the Climate Change Plan.
- Further, the Scottish Biodiversity Strategy should also be explicitly referred to. This is because we have a climate-nature crisis requiring simultaneously aligned actions especially on food and fibre through integrated land use.
- A theme of our responses to other questions is that while a circular economy for material flows and waste is necessary, it is not sufficient to address the twin climate-nature crisis. Soils and soil functions, enabled by water, are central to regulating the global carbon cycle and hence climate, so our framing of the circular economy is the whole economy, including the 'biological' economy that underpins rural activities, especially farming, forestry and fisheries.
- The Ellen MacArthur Foundation illustrate this well through their 'butterfly diagram' – see <https://ellenmacarthurfoundation.org/circular-economy-diagram>

How should circular economy strategies be aligned with climate change plans and other environmental targets (including biodiversity goals)?

A circular economy is essential to halt and reverse biodiversity loss (e.g. Leclère and others (2020) Bending the curve of terrestrial biodiversity needs an integrated strategy. Nature <https://doi.org/10.1038/s41586-020-2705-ylere>; and Sitra (2022) Tackling root causes - halting biodiversity loss through the circular economy). It is also essential to address the 50% of Scotland's net greenhouse gas emissions that are directly linked to land use.

Circular economy targets

Are statutory circular economy targets needed?

Yes. Links should be made to relevant targets and measurements in the forthcoming Natural Environment Bill and for the delivery of the Scottish Biodiversity Strategy. For food and fibre, this focus needs to be on farming and forestry and estates as the main land uses in Scotland. In addition to suppressing consumption of environmentally-damaging produce, targets need to foster regenerative land management practices for sustainable production.

- Targets should be informed by a clear hierarchy (examples below geared for land use)
 - AVOID - Prevent impact from the outset by rethinking the need to own things through new business models, virtualisation, and by designing out waste, for example with the help of alternative proteins and by making better use of existing buildings
 - REDUCE - Minimise impacts, for example by increasing recycling of textiles to make new garments and by substituting inputs in production, for example protein sources for cattle or recycled content in paper
 - REGENERATE - Drive regenerative outcomes in agriculture and forestry and other parts of the bioeconomy, to improve soil health, carbon sequestration, nutrient retention and diversity to build resilience
 - RESTORE - Circular interventions can also be complemented by efforts to assist the recovery of degraded ecosystems
 - TRANSFORM - Drive systemic change, notably by tackling the root causes of biodiversity loss across different drivers (from Sitra, 2022, Tackling Root Causes - halting biodiversity loss through the circular economy)

This is implied in Section 6, but the framework could be more specific.

Is there anything else you would like to say about powers to introduce circular economy targets? (Sections 6 and 7)

Where specific metrics and methodologies are lacking (e.g. carbon and material footprints, aspects of regenerative land management), qualitative targets (e.g. clear principles and a direction of travel) could be used, providing a framework in which to agree more specific quantifiable measures. In some cases, for example land use, the measures may need to be highly specific to avoid homogenising land management practices and simpler measures may stifle the diversity required for nature to thrive.

- Following our comment on the Strategy, monitoring and reporting should be aligned to the 5-yearly carbon budgets of the Climate Change Plan.

Restrictions on the disposal of unsold consumer goods

Is there anything else you would like to say about the disposal of unsold consumer goods? (Section 8)

- For the development of the circular economy beyond this Bill, there is clear evidence – especially in the IPBES Global Assessment for Biodiversity and Ecosystem Services 2019 – that indirect drivers such as over-consumption lead to biodiversity loss. Without tackling these indirect drivers we will not be successful in halting and reversing biodiversity loss. This is part of the transformative change package and a circular economy is a clear part of that. IPBES recommends ‘lowering total consumption and waste’. See also comments under ‘Net Zero’.

Net zero

Do you think the Bill will play a significant role in achieving these net zero targets? Please give your reasons.

- Potentially, but limited by the scope of the Bill in relation to the 50% of Scotland’s net emissions from the land. Much depends on the relationship between this Bill and how land is managed, especially through support for farming and forestry, for example through the Agriculture Bill.

Examples of regenerative land management practices include:

- Maintaining Living roots in the soil as all times
- Cover crops, rotations, mixed farming, agroforestry
- Maximising crop diversity
- Organic fertilisers (from livestock) – not too little, not too much, just right – integrated arable/livestock systems
- Integrated pest management
- Avoid soil loss and compaction
- Promote soil nutrient cycling – increase soil organic matter
- Monitoring informs management
- These practices, amounting to sustainable production, require lower input production methods, particularly from external inputs. For example, pasture fed livestock will reduce the currently large demand for arable land for production of animal feed. Producing more of what is needed on farm is at the heart of a circular economy.

- These measures would also help to tackle the direct drivers of biodiversity loss, namely: land use management and change including habitat fragmentation, overexploitation, climate change, pollution and invasive non-native species.
- All land will need to be managed regeneratively (100%) and some expressly for nature (overall 10% on each farm and 30% across landscapes/catchments) in order to simultaneously:
 - transition to net zero
 - provide greenhouse gas removals for unavoidable emissions elsewhere in the economy,
 - better manage climate risks by diversifying what is produced from the land over a given area and building more complex and connected land cover for more resilience and
 - enhance the state of nature and its essential live-support systems, including through soil health and function.
- As part of a just transition, a circular economy that covers food and fibre as well as material flows and waste should also help to address equity issues associated with resource use and hence the state of climate-nature. The IPCC's 6th Assessment (Working Group 3, Mitigation, 2023) notes:
 - Individuals with high socio-economic status contribute disproportionately to emissions and have the highest potential for emissions reductions, e.g., as citizens, investors, consumers, role models, and professionals (Summary for Policy Makers, C.10.2)
 - Choice architecture [how choices are presented and influence consumer decisions] can help end-users adopt... low GHG intensive options such as balanced, sustainable healthy diets [i.e. that promote health and wellbeing; have low environmental pressure and impact; are accessible, affordable, safe and equitable; and are culturally acceptable] acknowledging nutritional needs; food waste reduction; adaptive heating and cooling choices for thermal comfort; integrated building renewable energy; and electric light-duty vehicles, and shifts to walking, cycling, shared pooled and public transit; sustainable consumption by intensive use of longer-lived repairable products (high confidence) (C.10.4), and
 - Addressing inequality and many forms of status consumption [the consumption of goods and services which publicly demonstrates social prestige] and focusing on wellbeing supports climate change mitigation efforts (high confidence) (C.10.4).

There is a Policy Memorandum accompanying the Bill. This aims to set out the underlying reasons why the Scottish Government thinks the Bill is necessary. Did you find the discussion under “Sustainable Development” in the Policy

Memorandum helpful or unhelpful in terms of understanding what impact the Bill would have in terms of reaching these net zero targets?

- As stated, there is an obvious connection between this Bill and UN SDG 12 (responsible production and consumption). Other expressly relevant goals include SDGs 13 (climate), 14 (life below water) and 15 (life on land).
- See also comments in response to Net Zero on sustainable consumption and equity.

General comments or aspects not in the Bill

Are there any areas not addressed by the Bill that you believe should be included? If so, what are they?

- See responses to other questions on the need for a circular economy to include the production of food and fibre through regenerative practices.
- If needed, please contact NatureScot for more detail on regenerative land management practices, including farming, forestry, estates and the built environment

Are there international examples of best practice in legislation supporting the transition to a circular economy?

- The Swiss National Soil Strategy

(https://www.bafu.admin.ch/dam/bafu/en/dokumente/boden/ud-umwelt-diverses/bodenstrategie-schweiz.pdf.download.pdf/en_BAFU_UI_2018_Bodenstrategie_b aims to preserve soil functions for the long term. Two laws support the policy ambition of 'no net soil loss': one insists that any excavated soil is re-used as soil, and another covers both topsoil and subsoil (<https://www.bafu.admin.ch/bafu/en/home/topics/soil/info-specialists/soil-protection-measures.html#:~:text=Soil%20has%20been%20protected%20by,soil%20pro>

Annexe C: Submission of written evidence by Scottish Environment Protection Agency

Circular economy strategy

Is a statutory requirement needed for a circular economy strategy?

SEPA welcomes proposals to strengthen the existing approach by placing a duty on Scottish Ministers to publish or refresh a circular economy strategy.

A statutory Circular Economy strategy can stretch beyond ‘waste management’ and provide a platform from which to embed circular economy principles throughout the whole economy and across Scottish Government policy areas in a similar way to the Climate Change Plan.

Everything we do, everything we buy, and everything we use has an impact on our planet. Around 80% of Scotland’s carbon footprint comes from products and services we manufacture, use and throw away – our consumption. Scotland has a material-intensive economy. In 2018, Scotland’s raw material consumption per capita, also known as a material footprint, is 19.3 tonnes¹, double the world average.

This is unsustainable. In our Waste to Resources Framework², we describe the Circular Economy as a game-changing opportunity to –

- Manage resources within planetary limits;
- Meet Scotland’s climate change targets and ambitions;
- Create new industries and economic opportunities;
- Reduce the harms associated with waste management.

We must reconfigure our economy to bring our material footprint down, dramatically cut waste production, recover more and dispose of only the very minimum. Action is required across the economy and putting a CE Strategy on a statutory footing is a crucial step on that journey.

Is there anything else you would like to say about a circular economy strategy? (Section 1 – 5)

- SEPA welcomes the strong focus in Section 1(3) of the Bill on sustainable production and consumption. We consider that the strategy should provide:
- A vision for Scotland’s Circular Economy and its role in achieving Net Zero and delivering well-being for citizens, with clear outcomes, targets and indicators.

¹ <https://cdn.zerowastescotland.org.uk/managed-downloads/mf-qrrfa3ry-1679488452d>

² <https://www.sepa.org.uk/media/219528/one-planet-prosperity-a-waste-to-resources-framework.pdf>

- A platform for action across all government policy areas to ensure maximum environmental, economic and social benefit for Scotland.
- Mechanisms to incentivise new products and business models aligned to circular economy principles.
- Alignment with EU policy such as the Sustainable Products Initiative, which aims to make products more durable, repairable, recyclable and energy-efficient.

SEPA welcomes the provisions in Section 2 regarding consultation. Such consultation must go beyond waste management audiences if the strategy is going to be meaningful to the energy, food and drink, construction, and services industries.

SEPA welcomes the provisions in Section 4 requiring regular review. We are mindful there is a balance to strike between keeping the strategy up-to-date and providing sufficient long-term certainty for investors.

SEPA welcomes the provisions in Section 5 regarding reporting on the strategy. Regular reporting on progress will support transparency and enable Parliament and Environmental Services Scotland to hold Ministers to account for delivery.

SEPA notes there is no specific proposal for an independent advisory body like the Scottish Committee on Climate Change (CCC). SEPA considers the CCC model to have provided significant value to progress towards climate change targets and would anticipate a similar role could be performed by Environmental Standards Scotland.

A Scottish circular economy strategy is part of a broader context. Circular economy and waste policy is now a complex landscape, with Scottish, UK, European and global dimensions to consider. Many areas are reserved and would require action from UK Government. SEPA would like to see movement at UK level on taxation (e.g. reducing VAT on repair services and repaired products), an enhanced consumer right to repair, product passports and eco-labelling (e.g. reparability indexing) and minimum recycled content of products.

There will remain an ongoing need for a National Waste Management Plan for Scotland, aligned to Articles 28 and 29 of the EU Waste Framework Directive. It will be important to be clear how this new legislation interacts with the National Waste Management Plan for Scotland Regulations 2007 (as amended)

Circular economy targets

Are statutory circular economy targets needed?

SEPA supports the proposal to enable Ministers to set statutory circular economy targets.

A new statutory Circular Economy Strategy would benefit from a broad and well considered set of economic, environmental, social and governance indicators that measure the decoupling of economic growth from resource use and environmental

impact. It is unlikely that any single metric could be used to measure Scotland's progress on adopting a circular economy.

While we recognise the need for urgency, SEPA recommends developing and testing new indicators via a Circular Economy Monitoring Framework before creating statutory targets. This can draw together the current range of publications and act as a test bed for new and innovative indicators allowing for robust data collection and handling processes to be developed.

Is there anything else you would like to say about powers to introduce circular economy targets? (Sections 6 and 7)

We have come a long way in developing our indicators but must keep pushing past end-of-life measures. SEPA produces a range of Official Statistics publications³ and visualisation tools to support existing waste management targets.

Building on this, Scotland was the first country in the UK to develop a carbon metric⁴ for waste management to complement the tonnage-based targets and indicators. More recently, Zero Waste Scotland published a Material Flow Account for Scotland⁵ going beyond waste management to quantify the material footprint of Scotland's economy. The Office for National Statistics⁶ is also now producing material footprint data for the whole of the UK.

CE indicators and targets are an emerging area of policy. Research commissioned by Zero Waste Scotland⁷ highlighted that there is currently no consistent approach to measuring consumption in other countries and consumption-based targets are rare. We therefore support the approach proposed in Section 6(3) to define this power broadly,

We also need to improve the underlying data quality, frequency, and granularity around material consumption and carbon impacts. As that underlying data improves, it will become easier to calculate a range of indicators of circularity.

Restrictions on the disposal of unsold consumer goods

Do you think there is a need for additional regulation restricting the disposal of unsold consumer goods?

SEPA supports placing restrictions on the destruction of unsold consumer goods.

The destruction of unsold consumer products is a loss of valuable economic resources as goods are produced, transported, and destroyed without ever being used. This provision will reduce the environmental impact of those products by reducing the generation of waste and disincentivise overproduction of products.

³<https://www.environment.gov.scot/our-environment/people-and-the-environment/waste-and-resources/>

⁴ <https://www.zerowastescotland.org.uk/resources/carbon-metric-publications>

⁵ <https://www.zerowastescotland.org.uk/resources/material-flow-accounts-mfa>

⁶ <https://www.ons.gov.uk/economy/environmentalaccounts/articles/materialfootprintintheuk/latest>

⁷<https://www.zerowastescotland.org.uk/resources/consumption-reduction-targets-legal-status-research>

SEPA considers this measure should form part of an overarching approach to product stewardship which influences product design and retail models, while increasing transparency and the diversion of materials from recycling and disposal back into reuse, repair, or remanufacturing.

We also recommend that in designing this measure care is taken to avoid unintended consequences.

Is there anything else you would like to say about the disposal of unsold consumer goods? (Section 8)

France⁸ introduced such a ban to encourage companies to rethink their stock management and production. Rather than landfill or incinerate unsold goods, companies must reuse, donate, or recycle their unsold products.

While we generally support the free trade in good quality reusable clothing, care must be taken to avoid unintended consequences. In 2023, the Changing Markets Foundation⁹ tracked 21 articles of clothing returned in good condition through ten different fashion brands' take-back schemes. Out of the 21:

- Seven were destroyed, landfilled, or downcycled;
- Five never left their original destinations or ended up in a warehouse;
- Five were resold within Europe;
- Four were shipped to African second-hand markets.

A second report¹⁰ estimated that up to 50% of the 'second-hand' clothing received by Kenyan traders from EU or UK sellers is unsellable and would be either dumped or burned.

It is important therefore that this measure does not incentivise movement of unsold goods on to unsuitable markets but prioritises further use within Scotland / UK.

If taken forward, this ban would require a regulatory authority to raise awareness, ensure compliance, and take enforcement where appropriate. Resourcing, guided by the polluter pays principle would be required to make this an effective policy.

Charges for single-use items

Should Scottish Ministers have powers to make regulations that require suppliers of goods to apply charges to single-use items?

⁸https://circulareconomy.europa.eu/platform/sites/default/files/case_studies_-_french_anti_waste_law_aug21.pdf.pdf

⁹ <https://changingmarkets.org/take-back-trickery/>

¹⁰ <http://changingmarkets.org/wp-content/uploads/2023/02/Trashion-Report-Web-Final.pdf>

SEPA supports the use of economic measures to tackle the consumption of single use items. We would also highlight the potential to align with existing powers to restrict or ban environmentally harmful products.

SEPA would also like to see these powers used as part of a proactive approach to approach to product stewardship. It will be important to embed circular economy principles at the design stage of all products so we do not simply switch from one single use product to another. Success will be when we no longer have to ban or charge levies on unsustainable products.

Is there anything else you would like to say about charges for the supply of single-use items? (Section 9)

SEPA supported the carrier bag charge¹¹ which significantly reduced the number of single use carrier bags and the recent bans on certain single-use plastics.

SEPA supports the Expert Panel on Environmental Charging and Other Measures (EPECOM) recommendation¹² to implement a charge on single-use disposable beverage cups as part of a package of measures to influence consumers to switch to re-usable alternatives and Scottish Water's campaign to ban plastic wet wipes which contain plastic.

Problematic products may be suitable for either bans or charges depending on the item in question and the policy outcomes sought. However, the powers available to Ministers for restricting or banning an item in Section 140 of the Environmental Protection Act 1990 ("EPA90")¹³ are different to the Bill proposals for implementing a charge. This may limit Ministers ability to choose the right approach in any given circumstance.

- The proposed new power for charges is limited to 'containers or packaging for goods' and items to be 'used in connection with the consumption or use of goods'. On the other hand, the EPA90 power is broader not and can any 'substance or article' can potentially be subject to a ban or restriction.
- The EPA90 power can only be used to ban or restrict a substance or article for the purpose of preventing pollution of the environment or harm to human health or to the health of animals or plants. It is not possible to ban or restrict a product based on carbon impact, life-cycle analysis or the fact is 'single-use'.
- Conversely, the proposed new power enables the introduction of charges on items which are likely to be used 'once, or for a short period'. It would not be possible to introduce charges for the purpose of preventing pollution or harm.

These differences mean that the powers used to ban or introduce charges for problematic products have different scopes and are subject to different tests.

¹¹ <https://www.mygov.scot/carrier-bag-charge>

¹² <https://www.gov.scot/groups/expert-panel-on-environmental-charging-and-other-measures/>

¹³ <https://www.legislation.gov.uk/ukpga/1990/43/section/140>

SEPA would like to see Ministers provided with a wider power to prohibit, restrict, or levy charges on the sale of any substance or article where necessary to prevent pollution or to support a transition from single use / high lifecycle impact products to more sustainable alternatives.

How do you think Scottish Ministers should use their powers to have the greatest impact in transitioning to a circular economy?

SEPA would like to see these powers used as part of a proactive approach to approach to product stewardship. It will be important to embed circular economy principles at the design stage of all products. Success will be when we no longer have to reactively ban or charge levies on unsustainable products.

Household waste

Should it be a criminal offence for a householder to breach their duty of care in relation to waste under the Environmental Protection Act 1990 (e.g. to fail to ensure that waste is disposed of to an authorised person)?

SEPA supports the proposal to strengthen the householder Duty of Care and create an associated Fixed Penalty Notice for Local Authorities and would like to highlight further opportunities to improve Local Authority enforcement powers related to fly-tipping.

Is there anything else you would like to say about household waste and enforcement of household waste requirements? (Sections 10 & 11)

SEPA supports making failure to comply with the householder Duty of Care a criminal offence.

Placing a clear obligation on all waste producers, whether a householder or a business, to manage their waste properly is an important tool in the fight against fly-tipping.

SEPA also supports the creation of a Fixed Penalty Notice in support of this duty. However, we note there is no equivalent Fixed Penalty Notice proposed in the Bill for Local Authorities to serve on a business waste producer. SEPA believes Local Authorities should have the ability to serve a notice on any waste producer implicated in fly-tipping offences, whether a householder or a business.

SEPA recommends expanding the scope of the proposed Fixed Penalty Notice to cover all Section 34(6) offences which would allow Local Authorities to take more effective action in the following example circumstances -

- Where a business has passed their waste to a person who is not authorised to accept it and that was subsequently fly-tipped.
- Where a business fails to furnish a waste transfer note on request to prove they have an appropriate waste service in place. This is an important investigatory tool in burning and fly-tipping cases and is a power already available to Local Authorities in England.

- Where a business is not complying with their duty to segregate waste for recycling. Local Authorities are an enforcement authority for these requirements but, unlike SEPA, do not have a proportionate enforcement tool at their disposal. In the recycling route map consultation, stakeholders called for more enforcement of those provisions and introducing a FPN would support enforcement and contribute to the delivery of the recycling aims of the regulations and our broader circular economy ambitions.

Is further action needed, either within or outwith the Bill, to tackle flytipping effectively? If so, what action is needed?

SEPA is committed to working with Scottish Government to deliver the new Litter and Fly-tipping Strategy. This is an opportunity to improve flytipping data, clarify roles and responsibilities and strengthen the partnership between the enforcement authorities (local authorities, SEPA and Police Scotland) and landowners as the victims of fly-tipping.

SEPA is working with Scottish Government to reform the environmental permitting system, to make it easier for SEPA to refuse and revoke waste carrier's authorisations where there is evidence of fly-tipping. This further supports efforts to ensure only the right people are offering waste services.

SEPA and Scottish Government is working with the four UK nations to develop Digital Waste Tracking service which will result in a step change in transparency and accountability around the movement of Scottish waste from start to finish. The improved information this provides will allow us to prioritise and target our interventions much more effectively.

In addition to our recommendation to expand the scope of the proposed Local Authority FPN to all Duty of Care offences, the bill also provides an opportunity to improve powers under Section 59 of the Environmental Protection Act 1990¹⁴. This provision allows SEPA and Local Authorities to serve a notice requiring the removal of unlawfully deposited waste (e.g. fly-tipped waste). However, this notice can only be served on the occupier of the land who in most cases is not the fly-tipper. While SEPA will take advantage of a more flexible notice in future via the Environmental Authorisations (Scotland) Regulations 2018¹⁵, Local Authorities will still rely on Section 59. We recommend that Section 59 is amended such that Local Authorities can require those responsible for fly-tipping to take steps to remove the waste and for failure to comply with such a notice to be a criminal offence backed by an appropriate Fixed Penalty Notice.

Household waste recycling – Code of Practice and local targets

Should the Code of Practice on household waste recycling (currently a voluntary code) be put on a statutory footing?

¹⁴ <https://www.legislation.gov.uk/ukpga/1990/43/section/59?view=extent>

¹⁵ <https://www.legislation.gov.uk/ssi/2018/219/regulation/46/made>

SEPA supports the proposal to update and put the Code on a statutory footing continuing the journey towards consistent collections.

Should Scottish Ministers have powers to set targets for local authorities relating to household waste recycling?

SEPA supports this proposal as part of a wider package of measures to improve household recycling rates as set out in the Recycling Route Map.

Is there anything else you would like to say about targets for local authorities relating to household waste recycling? (Section 13)

Targets should only be used as part of a wider package of measures. Local Authorities are only partially in control of recycling rates. They do not design or sell the products which householders use and dispose of, determine the consumption or recycling behaviours of citizens or control the markets for recyclable material. A range of support and measures will be required across supply chains to support target attainment.

Is further action needed, either within or outwith the Bill, to support local authorities to achieve higher household recycling rates? If so, what action is needed?

SEPA publishes the Official Statistics¹⁶ for household waste management in Scotland. It is clear household recycling rates had begun to plateau at around 45% in the three years leading up to the COVID-19 pandemic. Household waste makes up approximately 21% of Scotland's waste by weight, but 55% of the total waste carbon emissions¹⁷.

The most recent compositional analysis of household waste¹⁸ shows that up to 60% of what households put into their residual waste bins could have been recycled using existing recycling services.

Analysis¹⁹ of high performing recycling systems around the world suggests that no single policy or practice is sufficient on its own to produce high household recycling rates. The highest performing systems combine targets, comprehensive collections, steps to disincentivise residual waste production (pay-as-you-throw), deposit return and extended producer responsibility schemes.

This Bill proposals must be seen in the context of other actions, particularly the ongoing reforms to the producer responsibility schemes for packaging, implementation of deposit return and the Government's recycling route map. No single provision will work on its own but the package of measures, combined with actions underway elsewhere may combine to move the dial.

- Reforms to the packaging producer responsibility scheme aim to increase the recyclability of products and increase capture at end-of-life. It will require

¹⁶ <https://informatics.sepa.org.uk/HouseholdWaste/>

¹⁷ <https://cdn.zerowastescotland.org.uk/managed-downloads/mf-reemzjho-1681985129d>

¹⁸ <https://cdn.zerowastescotland.org.uk/managed-downloads/mf-jk1pxc2e-1677510625d>

¹⁹ <https://cdn.zerowastescotland.org.uk/managed-downloads/mf-2iligqdj-1678697215d>

producers to cover the full net cost of managing their packaging when it becomes waste. Funding will go directly to local authorities to fund effective and efficient collection systems for household packaging waste.

- Improvements in product labelling to reduce confusion and contamination in recycling collections. In 2020, On-Pack Recycling Label (ORPL) created a binary labelling system which should become mandatory.
- Expansion of separate collections in line with the Waste Framework Directive (textiles, and hazardous household waste) and continued investment through the Recycling Infrastructure Fund will improve services for householders.
- Evidence from across Europe shows that services supported by direct charging for residual waste (whether on a volume or weight basis) produce higher recycling rates.
- Improving the powers available to local authorities to ensure that households are properly using their recycling containers or to prevent recycling being placed in the residual waste bin. Implementation should be accompanied by long term national communications campaigns to encourage and support the right behaviours and practices and drive participation rates.
- The 2022 plastics tax is a clear ‘pull’ measure increasing demand for recycled material in the UK. The European Parliament has voted in favour of developing the concept of minimum recycled content further. While these tax powers are reserved, it is important to keep up-to-date with developments in the area and provide incentives to use recycled material in Scotland rather than rely on exports.

Lifting from vehicles

Should civil penalties for littering from vehicles be introduced?

SEPA welcomes the proposal to improve Local Authority powers to tackle littering from vehicles.

Enforcement powers in respect of certain environmental offences

Should enforcement authorities in Scotland be given powers to seize vehicles linked to waste crime?

In Scotland, assessments indicate a persistent presence of organised crime with business connections in the environmental sector, and that the number of crime groups is in the high teens at any one time.

SEPA supports the proposal to bring forward new powers for SEPA and Local Authorities to seize vehicles involved in waste crime. This has been used to good effect by the EA and Local Authorities in England and will be a welcome addition to the toolkit in Scotland.

Section 16 of the Bill sets out the offences in respect of which this power can be exercised. SEPA is reforming its environmental permitting framework and would request that operating a waste management activity without an authorisation under the Environmental Authorisations (Scotland) Regulations 2018 is also included in this section.

Is there anything else you would like to say about enforcement powers? (Sections 15 and 16)

The costs of organised waste crime in England alone are estimated at nearly £ 1 billion per annum²⁰. In Scotland, there is a persistent presence of organised crime in the environmental sector, with the number of crime groups in the high teens at any one time. Those involved in waste crime are also linked to additional criminality including money laundering, human trafficking, fraud, and firearms/drug supply.

- SEPA and Scottish Government are working to reform the environmental permitting framework. This will reform the system for waste carriers and site permits making it easier to keep criminals out of the waste business and enable SEPA to revoke authorisations.
- SEPA and Scottish Government is working with the four UK nations to develop Digital Waste Tracking service which will result in a step change in transparency and accountability around the movement of Scottish waste from start to finish. The improved information this provides will allow us to prioritise and target our interventions much more effectively.
- SEPA would benefit from an improved investigatory toolkit by enabling access to communications data (e.g. mobile phone data) via the Investigatory Powers Act 2016. Our counterparts in England have those powers.
- SEPA would support the continued development of Scottish Sentencing Guidelines for environmental offences.

Reporting on waste and surpluses

Should Scottish Ministers have powers to require persons to publish information on anything they store or dispose of (except in relation to domestic activities)?

SEPA welcomes actions to increase transparency surrounding wasteful practices.

This policy will require an enforcement authority. There may be mechanisms by which the reporting businesses can pay for this directly in line with the polluter pays principle.

Is there anything else you would like to say on reporting? (Section 17)

Discussion to date has focussed on food as it has a high carbon and material footprint. The policy statement and the consultation response highlighted food waste

²⁰https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/915937/waste-crime-review-2018-final-report.pdf

as the most appropriate priority for regulation. Food waste reduction has far-reaching consequences. Not only does it cost Scottish householder around £ 440 per year on average, it contributes nearly 4% of Scotland's carbon footprint²¹.

SEPA welcomes moves to make food waste and surplus more transparent. This measure must be seen as part of a package of measures and as over 60% of food waste is produced in the home, business reporting is unlikely to make a significant contribution to the target on its own.

SEPA acknowledges the achievements of the voluntary scheme run under the Courtauld Commitment. The voluntary approach resulted in 221 business reporting food waste and surplus in 2022. We note that DEFRA has now put mandatory food waste and surplus reporting on hold subject to a further review in mid-2025.

It is important recognise that the proposed Digital Waste Tracking system will significantly improve data availability and we should be careful not to introduce duplicate reporting systems. If data is being recorded at each collection from individual sites, then that could make a significant contribution towards mandatory food waste reporting.

How should Scottish Ministers go about identifying which types of waste and surpluses should be subject to mandatory public reporting?

The carbon metric provides a helpful lens through which to identify material / product types with the highest carbon and material footprints.

Net zero

Do you think the Bill will play a significant role in achieving these net zero targets? Please give your reasons.

This Bill as an important step towards a Circular Economy and our net zero targets, in particular the proposal to put a the production of a Circular Economy Strategy on a statutory footing.

Everything we do, everything we buy, and everything we use has an impact on our planet. Around 80% of Scotland's carbon footprint comes from products and services we manufacture, use and throw away – our consumption. Scotland has a material-intensive economy. Put simply, we use far too much 'stuff' and that is contributing to the climate crisis. In 2018, Scotland's raw material consumption per capita, also known as a material footprint, is 19.3 tonnes, double the world average.

To be truly Net Zero we need to address this material footprint and the carbon emissions associated with it.

We must reconfigure our economy to bring our material footprint within planetary limits, dramatically cut waste production, recover more and dispose of only the very

²¹ <https://www.gov.scot/publications/consultation-delivering-scotlands-circular-economy-route-map-2025-beyond/pages/16/>

minimum. To achieve this, action is required across the whole economy. This Bill is one part of that wider landscape of reform, innovation and investment.

SEPA views this Bill alongside other significant policies and reforms at Scottish, UK, EU and global levels which will support progress towards a Circular Economy and improve the way we manage our waste. For example:

- The Scottish Government's Recycling Route Map set out a range of non-legislative measures to engage with consumers, support circular business models and improve waste management systems.
- Legislative reforms outside of the Bill such as to the packaging producer responsibility system and the inclusion of waste incineration within the UK Emissions Trading Scheme.
- Work at international level to phase out harmful chemicals such as persistent organic pollutants and update the rules concerning the export of plastic waste.
- The four UK nation Digital Waste Tracking project will help us to identify circular economy opportunities that are currently being missed and provide information which will help businesses innovate in the circular economy space.

Many areas are reserved and would require action from UK Government. SEPA would like to see movement at UK level on taxation (e.g. reducing VAT on repair services and repaired products), an enhanced consumer right to repair, product passports and eco-labelling (e.g. repairability indexing) and minimum recycled content of products.

We must keep stretching further, beyond 'waste management' towards sustainable production and consumption. The proposals in this Bill move in that direction and can provide a platform from which to embed circular economy principles throughout the whole economy