Net Zero, Energy and Transport Committee

31ˢᵗ Meeting, 2023 (Session 6)

Tuesday, 7 November 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 is 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

Net Zero, Energy and Transport 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.

7.   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.

8.   On 27 June, the Committee agreed to initial panels of witnesses for its oral evidence taking on the Bill. It agreed further panels of witnesses at its meeting on 26 September.

9.   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.

Oral evidence

10.   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. Read the Official Report – 26 September 2023.

11.   On 3 October, the Committee heard from a panel of statutory environmental regulators. Read the Official Report – 3 October 2023.

12.   On 31 October, the Committee held an evidence session with Scottish National Investment Bank to discuss its views on the Bill.

Meeting on 7 November

13.   The Committee will continue its evidence taking on the Bill by hearing from representatives of Consumer Scotland, as listed on the agenda.

14.   A copy of Consumer Scotland's written submission to the Committee's call for evidence on the Bill is available in the **Annexe.**

Next steps

15.   The Committee will continue its consideration of the Bill over the coming months by hearing from several panels of witnesses—

- On 14 November, the Committee will hear from a panel of Scottish environmental stakeholders;

- On 21 November, the Committee will take evidence from representatives of COSLA, Society of Local Authority Chief Executives and Senior Managers (Solace) and private waste companies. This will be followed by hearing from a panel of individual local authorities from urban, rural, semi-rural and islands areas.

- On 28 November, the Committee will hold an evidence session with UK-wide and international circular economy organisations. After this it will take

evidence form a panel of academic experts in the field of circular economy policy;

- On 5 December, the Committee will take closing evidence from the Minister for Green Skills, Circular Economy and Biodiversity.

16.   The Committee will also undertake a programme of engagement work relating to the Bill.

Clerks
Net Zero, Energy and Transport Committee

Annexe – Submission by Consumer Scotland

Circular economy strategy

Is a statutory requirement needed for a circular economy strategy?

1.   Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020, we are accountable to the Scottish Parliament. The Act provides a definition of consumers which includes individual consumers and small businesses that purchase, use, or receive products or services.

2.   Our purpose is to improve outcomes for current and future consumers and our strategic objectives are:

•   to enhance understanding and awareness of consumer issues by strengthening the evidence base

•   to serve the needs and aspirations of current and future consumers by inspiring and influencing the public, private and third sectors

•   to enable the active participation of consumers in a fairer economy by improving access to information and support.

3.   There are benefits for consumers in there being a statutory basis for any circular economy strategy. While a number of commitments and targets are already in place, a more joined up approach would support people to consume differently and support the transformation to a circular economy, creating new opportunities for businesses and consumers across Scotland.

4.   With around four-fifths (82%) of Scotland's carbon footprint coming from the products and services we manufacture, use, and throw away (https://www.zerowastescotland.org.uk/resources/how-scotlands-carbon-footprint-changing), supporting consumers in Scotland to focus their actions higher up the waste hierarchy and make changes to the way in which they consume products and resources will be a key part in achieving our net zero targets.

5.   The Circularity Gap Report (6399cc007f63ad41fae0b240_CGR Scotland.pdf (website-files.com)) for Zero Waste Scotland analyses material flows, and looks at the scale and nature of Scotland's consumption. It calculates all the raw materials used to make products and all the finished products consumed. This is used to understand the volume of material in Scotland that is currently being 'cycled' back into use – what is known as the Circularity Metric. This analysis indicates that Scotland is only 1.3% circular, which leaves a circularity gap of more than 98%. This means that at present, Scotland almost exclusively uses virgin resources. Supporting consumers to consume less and use resources more efficiently through instruments like a circular economy strategy will help to reduce the circularity gap and decrease the carbon footprint of people in Scotland.

6.   We note that a recent review of existing international circular economy strategies and action plans has been undertaken by Zero Waste Scotland. This

concluded that a statutory obligation for a circular economy strategy would likely be beneficial for a number of reasons. These reasons included the ability to provide a place to set out clear targets, prioritise key measures to adopt, and serve as a framework that other policies and strategies should be understood within. We agree that the provision of clear targets, identified priority measures and the ability of a circular economy strategy to act as a framework would support consumers in Scotland to understand and make more impactful changes in order to support the transition to a circular economy in Scotland.

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

7.   We agree that a five-year period for any circular economy strategy would allow Scotland to react and adapt to technological developments, new challenges and changes in the regulatory landscape. We note that this timeframe was supported by the majority of respondents to the 2022 circular economy consultation.

8.   The development of the strategy should keep consumers at the centre of the process, supporting them to make the informed choices that will contribute towards Scotland becoming a circular economy. The transition to a circular economy is one of the significant challenges of our time. Supporting consumers to understand what the most impactful actions and choices are that will contribute towards this transition will be a critical part of the overall strategy.

9.   In addition to an overarching strategy, having sector level plans would also help maximise the impact of the strategy. Key sectors with a major impact on the circularity of resources include food, transport, buildings and construction and manufacturing.

10.   The House of Lords Environment and Climate Change Committee recently concluded that there was evidence that consumers are concerned about climate change and the environment and that there is a widespread desire for action to be taken. However, they noted that many consumers do not know what the most effective actions are to reduce our emissions and environmental impacts, or appreciate the scale of change that will be needed to reach net zero or adapt to climate change. The Committee added that while the appetite of people across the UK for climate change action was mixed, the public want clear leadership from government and a coordinated approach to help them adapt (HL Paper 64. 1st Report of Session 2022–23. In our hands: behaviour change for climate and environmental goals). These findings are consistent with research that will shortly be published by Consumer Scotland, which is highlighted below.

11.   Forthcoming research by Consumer Scotland on consumer attitudes to decarbonisation and net zero shows that one third (34%) of respondents felt that they know what they need to do to help Scotland reach net zero, a further third (33%) did not feel they know what they need to do, and a final third (34%) were unsure (neither agreeing nor disagreeing). These figures, which suggest that two-thirds (67%) of people do not know or are unsure what they need to do to help Scotland reach net zero, highlight that there is significant scope for action to build further consumer understanding of decarbonisation and net zero policies and to engage consumers on the specific role they have to play in the changes required.

12.   Our research found that fewer than half (45%) of respondents agreed that their current purchasing decisions are influenced by concerns for the environment, with over a quarter (27%) disagreeing with the statement. This suggests that consumers in Scotland do not currently appear to be strongly influenced by concerns for the environment when it comes to making household goods purchasing decisions. However, more than half of our survey respondents (61%) believe they will consider the environmental impact of purchases they will make in the future.

13.   Our research identified broad support for a range of measures that can help promote more environmentally friendly behaviours. Respondents were asked for their views on a range of measures related to the use, reuse or disposal of household goods. The highest level of agreement was for the statement: there should be more promotion of repair and reuse services, as well as recycling services (92%). This was closely followed by the statement: products should be made so that they are easy to repair, and their components can be re-used (90%), and the statement: companies that sell products should be responsible for taking them back for recycling or disposal at the end of product life (80%).

14.   The findings above show general positive support from consumers for circular measures relating household goods. However, it is also clear from the findings that there is broad scope for further action to help inform and support consumers in focusing their actions higher up the waste hierarchy and make changes to the way in which they consume.

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

15.   Circular economy strategies should be aligned with relevant plans including the Climate Change Plan, Climate Emergency Skills Action Plan, National Performance Framework, Energy Strategy and Just Transition Plan and circular economy route map in order to make it as clear as possible for consumers to understand the actions that are needed. As part of this, consideration should be given to aligning the reporting periods of some of these strategies where practicable.

16.   It would be beneficial for the strategies to be aligned as much as possible with strategies from the other UK nations, taking account of existing regulatory frameworks, so that collaboration is easier and businesses operating across borders can easily understand and comply with relevant regulatory requirements.

Circular economy targets

Are statutory circular economy targets needed?

17.   In our assessment, statutory circular economy targets would be beneficial for consumers. We note that voluntary targets have not been as effective as required for the transition to a circular economy. Scotland has made significant long-term progress towards reaching its waste and recycling ambitions, for example, the total amount of waste going to landfill in Scotland has dropped by nearly a third over the past decade (3 million tonnes or 30.2% of all waste managed was sent to landfill in 2021), and over 56% of waste was recycled in 2021. However, progress has slowed in recent years and there is significant action still required to meet all targets in full

(https://www.sepa.org.uk/environment/waste/waste-data/waste-data-reporting/waste-data-for-scotland/). Statutory targets can create certainty of long-term commitment and action and can provide an incentive for businesses and local authorities to make necessary amendments which contribute to progress towards these goals (mf-qdjkl5uo-1686671781d (zerowastescotland.org.uk)).

18.   In addition to the requirement for statutory targets, a robust monitoring framework will be important to allow for holistic tracking of Scotland's consumption levels and wider measures of circularity, such as reuse, recycling and disposal, while ensuring that the wider social, economic and environmental impacts are taken into account. We note it is intended that a monitoring framework will sit alongside the Environment Strategy Monitoring Framework and inform policy choices. This will allow for action to be prioritised and targeted around the areas of consumption that are the most damaging with regards to climate change and wider environmental impact. It is important that this monitoring framework and regular progress updates are published so that it is transparent for consumers and allows opportunities for engagement and accountability.

19.   There are some sectors where circular economy targets may be particularly beneficial in helping to meet wider net zero targets. For example, specific circular economy targets may be needed regarding the transportation and packaging of goods. This issue is particularly pertinent for consumers in Scotland, which differs from other parts of the UK in terms of higher levels of rurality. Rural areas account for 98% of the land mass of Scotland and 17% of the population resident in rural areas (6% in remote rural and 11% in accessible rural) (https://www.gov.scot/publications/rural-scotland-key-facts-2021/pages/2/) which has implications for transporting goods to consumers.

20.   As the levy-funded advocacy body on postal services for consumers in Scotland we are particularly aware of the growth in the parcel market in recent years, and the potential implications of this for the circular economy in terms of transport. Parcel volumes more than doubled in just two years (from 2,255 million in 2019-20 to 3,426 million in 2021-22) (https://www.ofcom.org.uk/data/assets/pdf_file/0033/248586/annual-monitoring-update-postal-market-2021-22.pdf). While these numbers fell slightly after the end of the pandemic, volumes of parcels are still significant. This market has a heavy reliance on road freight to transport goods to homes and businesses, although there have been some recent changes with ongoing investment by parcel operators in alternative modes of transport.

21.   Setting out targets on how goods will be transported throughout Scotland, such as via electrified rail freight or hydrogen powered vehicles, would support the fundamental shift needed by businesses to meet the objectives of the Bill. Mandatory reporting of transport emissions, which could potentially then be clearly and simply communicated to consumers, would also support consumers to make informed decisions around choice of courier.

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?

22.   Additional regulation restricting the disposal of unsold consumer goods has the potential to reduce overproduction and encourage sustainable stock control measures. If delivered effectively, this will support a reduction in use of raw materials and resources in the production, distribution and destruction processes, meaning that where goods are produced, maximum usage of the materials is obtained.

23.   It will be important to provide support and guidance for small businesses to support the implementation of these measures, particularly in the short term. However, in the long term businesses should be able to realise the benefits that come from better stock management practices.

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

24.   If restrictions on the disposal of unsold consumer goods are to be phased in by product groups, Consumer Scotland is supportive of the application of life cycle analyses, such as Zero Waste Scotland's carbon metric (https://www.zerowastescotland.org.uk/resources/carbon-metric-publications), to guide this phasing. Such an approach should be taken into account in order to target products with "high environmental impacts" across their entire lifecycle (resource extraction, use and disposal), as well as those with the highest reuse potential.

25.   Products and materials should be circulated at their highest value, meaning materials are in use, either as a product or, when that can no longer be used, as components or raw materials, creating a system where as little as possible becomes waste and the intrinsic value of products and materials are retained (https://ellenmacarthurfoundation.org/circulate-products-and-materials).

26.   We note that there will be challenges in achieving the correct balance between maximising reuse of products and raw materials while ensuring that safety and acceptable product quality is retained. Where goods are unsafe, counterfeit, have been subject to recall procedures or are otherwise unfit for consumption it is important that they do not enter the supply chain. However, where possible, value may be extracted from their components. We would encourage close consultation with trading standards bodies and the Office for Product Safety and Standards in the development of detailed proposals in this area.

27.   Transportation of consumer goods that are consigned for disposal should be considered as part of the carbon cost of items. Currently there is a lack of transparency of the carbon cost of disposing of goods, and therefore low consumer awareness of the impact recycling could have. Local authorities have a key role to play in providing clear and accessible information. The transport of unsold consumer goods should be kept to a minimum, with local disposal used if possible.

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?

28.   In forthcoming survey research carried out by Consumer Scotland more than half of respondents supported more tax being charged and paid for products which can't be repaired or recycled (53%).

29.   If charges for single-use items are introduced it will be important to avoid potential detriment, to consumers who are on low incomes or in vulnerable circumstances. To mitigate against this, there must be accessible and affordable sustainable alternatives available to all consumers that fit their needs.

30.   In addition to this, it is important to acknowledge that charges placed on single-use items are only one part of the solution. Facilitating greater consumer awareness and engagement with reducing consumption of single-use items through a sustained behaviour change campaign will also be important. It will also be important to work with manufacturers to develop more sustainable products, for example through more research into understanding alternative materials which can replace single-use items, providing incentives to manufacturers to find solutions and exploring technological advances.

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

31.   Care must be taken to avoid any charges placed on single-use items disproportionately impacting consumers in vulnerable circumstances by working to make sure that there are affordable and accessible alternatives to the products that are available to all consumers in Scotland.

32.   The fairer Scotland duty assessment notes that there is evidence to suggest that people on low incomes may not purchase higher quality goods as part of a budgeting strategy. This may mean that low-income households face budget pressures if they are unable to avoid environmental charges, for example by purchasing a reusable coffee cup (https://www.gov.scot/publications/circular-economy-bill-fairer-scotland-duty-assessment/).

33.   We acknowledge that whether or not consumers in vulnerable circumstances, such as low-income households, will be disproportionately impacted by charges on single-use items will depend on how secondary legislation is designed. We note the suggestion in the fairer Scotland duty assessment that consideration be given to any measures that may be needed to support households to purchase long-lasting goods that, while cost effective in the long term, could initially be unaffordable without support (https://www.gov.scot/publications/circular-economy-bill-fairer-scotland-duty-assessment/).

34.   Charges for single-use items should be clear and understandable for consumers and information relating to charges should be made accessible in a range of formats in the run up to a charge going live to support consumers to understand the change.

35.   To avoid detriment being caused to small businesses, it is important to provide sufficient time and support to allow businesses to prepare to comply fully with any new measures. The FBS Big Small Business Survey found that almost two fifths (38%) of SMEs in Scotland have limited or no understanding of government

targets related to net zero and how these will impact their business (https://www.fsb.org.uk/resources-page/big-small-business-survey.html), highlighting the need to support small businesses with this transition.

36.   Costs and burdens experienced by businesses may be disproportionately felt by SMEs and we note that support will be required for these businesses, and consideration should be given to whether a sectoral approach to providing this support may assist in providing the most appropriate and targeted support to businesses.

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

37.   We would suggest that Scottish Ministers should use their powers to focus efforts on tackling the consumption of resources which have the highest environmental impacts, using targets and monitoring to drive progress. It would be beneficial for focus to given to supporting consumers to move further up the waste hierarchy, tackling not just waste but lowering the level of resources used in manufacturing and distributing goods.

38.   A significant amount of packaging used by businesses and consumers to protect goods for transport is single-use only. This includes materials such as bubble wrap and soft plastic packaging, which can be difficult to recycle. Currently large retail stores offer access points for recycling soft plastics, which may not be as readily available to consumers living in rural or remote areas. Measures to reduce use of single use plastics by businesses and offer consumers alternative, affordable ways of disposing of single use plastics, could be an area of focus for Scottish Ministers, where changes to charges and policy could incentivise greater recycling.

39.   Although there is a need to ensure that goods are received in good condition, reducing the volume of packaging used for transporting goods, and therefore the size of package, should also be considered. This could also result in more efficient transportation of goods and fewer trips. We note that some regulations regarding packaging operate on a UK wide basis, and that many retailers and distributors work across the UK, meaning that any Scottish policy measures must be workable in this wider framework.

Household waste

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

40.   We welcome the intention to take a codesign approach to developing household waste and recycling strategies. We note that this will require work on a number of levels, including influencing consumer behaviour change, working with local authorities and other relevant stakeholders and setting overarching national policies.

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

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?

41.   We note that the voluntary Scottish Household Recycling Charter and its Code of Practice has been in place since 2015, with 31 of 32 local authorities currently signed up. However only around a third of local authorities have so far fully aligned their services to reflect Code of Practice standards (https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/circular-economy-scotland-bill/introduced/policy-memorandum-accessible.pdf). This suggests that continuing with a voluntary approach is unlikely to deliver the pace or levels of improvements required to meet recycling targets.

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

42.   We note the relative lack of waste and recycling infrastructure on Scotland's islands, and the potential for these communities to either face high costs in establishing new infrastructure or significant costs, and associated emissions, for transportation to the mainland if there are any major changes to recycling targets.

43.   Flexibility in developing approaches to household waste recycling will be required to make sure that local needs are being met. Local authorities should not be penalised for circumstances such as geographic isolation and high levels of deprivation. These aspects should be taken into account, to avoid consumers in vulnerable circumstances or local authorities with a more dispersed population base being disproportionately impacted.

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

44.   When prioritising which types of waste and surpluses should be subject to mandatory public reporting, we believe that key things to be taken into account include identifying the waste streams with the highest environmental cost and social impact and those with the highest reuse potential.

Net zero

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

45.   The Bill has the potential to play a significant role in helping Scotland to achieve net zero targets. With around four-fifths of Scotland's carbon footprint coming from the products and services we manufacture, use, and throw away (https://www.zerowastescotland.org.uk/resources/circular-economy-bill-scotlands-sustainable-journey), supporting consumers in Scotland to move further up the waste hierarchy and make changes to the way in which they consume will be a key part in achieving our net zero targets.

46.   On average, people in Scotland consume more than double the sustainable level of material use, which academics agree would still allow for a high quality of

life: around 8 tonnes per person per year (https://assets.website-files.com/5e185aa4d27bcf348400ed82/6399cc007f63ad41fae0b240_CGR Scotland.pdf). Supporting consumers to buy and waste less through instruments such as the Circular Economy Bill will help to reduce the carbon footprint of people in Scotland.

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?

47.   There is a need for governments across the UK to provide better information to consumers to enable them to make informed choices that will make a positive impact on meeting climate change targets. A key task will be to work to produce messaging that is simple, consistent across sectors and adequately targeted. Working with trusted organisations, both at a local and a national level, to develop and deliver consistent messaging has the potential to both significantly improve the clarity and reach of information campaigns, providing consumers across Scotland with the information that they need.

48.   Consumers are currently receiving multiple messages from various sectors, using differing language and approaches. A better coordinated approach, using language that is accessible and understandable to consumers and that is based on an overarching narrative designed to support behavioural changes, would successfully support consumers to understand the action needed by them to transition to a circular economy.

49.   We would welcome the circular economy strategy being aligned to a behaviour change model, making use of public engagement best practice and behavioural science approaches that look beyond the individual.

50.   The Consumer Duty will shortly come into force, which represents a significant new opportunity to improve outcomes for consumers in Scotland, by requiring public bodies to consider consumer interests when they take strategic decisions. Consumer Scotland will be responsible for issuing guidance to public authorities covered by the Duty. The Duty will be relevant to a number of aspects of the Bill, including strategic decisions relating to waste infrastructure and circularity target setting and we look forward to engaging with future consultations on secondary legislation.