

SCOTLAND'S DEPOSIT RETURN SCHEME

# Operational plan: guidance for producers

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[contactscotland-bsl.org](http://contactscotland-bsl.org)

## Who is this guidance for?

This guidance is for all drinks producers who intend to register as a producer directly with the Scottish Environment Protection Agency (SEPA).

Registering as a producer direct with SEPA (rather than through a scheme administrator) means you will be responsible for redeeming deposits and collecting your scheme packaging (empty drink containers) from all return point operators yourself. You will need to submit an operational plan that demonstrates to SEPA that you have the capability to set up a suitable collection service, reimburse return points for the deposits they have returned on your behalf and pay their reasonable handling fee, and to communicate to all return points in Scotland what they need to do with your scheme packaging when it is returned to them.

If you intend to appoint a scheme administrator to discharge your obligations as a producer, you do not need to produce an operational plan or register with SEPA as the scheme administrator will do this on your behalf.

## Introduction

As a producer registering directly with SEPA you are required to submit an operational plan demonstrating that you will be able to comply with all your obligations under The Deposit and Return Scheme for Scotland Regulations 2020 (the Regulations). It should explain in detail how you will fulfil the producer obligations required by Regulation 10(1) and 11(1) of the Regulations<sup>1</sup>. Your operational plan must be submitted to SEPA at the same time as your application to register as a producer. Registration applications submitted to SEPA without an operational plan will be rejected. If your application is rejected, you will not be able to sell drinks that are within scope of the scheme in Scotland.

Scotland's Deposit Return Scheme (DRS) is a form of producer responsibility. SEPA will not be prescriptive in how compliance is achieved and solutions to operational problems are not

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<sup>1</sup> Details of Regulation 10 and 11 of The Deposit and Return Scheme for Scotland Regulations 2020 are available in Appendix 1 and online via the following links:

- [Regulation 10](#)
- [Regulation 11](#)

provided in this guidance. As a producer it is your responsibility to understand the Regulations and develop an operational plan that is fit for purpose.

The following guidance is intended to help producers understand the range of information we expect to be included in an operational plan. It is not exhaustive, and you should include any other information that you consider to be relevant to your own operations.

Throughout your operational plan you should reference how you will ensure your operations comply with Regulations 10 and 11 of the Regulations<sup>2</sup> as this will form the basis of our assessment.

[Definitions of DRS related terms](#) can be found on SEPA's website.

## Purpose and scope

Your operational plan is an important document when it comes to fulfilling your obligations as a producer. It should detail how your business intends to comply with the Regulations, and how and when you will redeem deposits and collected scheme packaging from return point operators. It will be specific to your business and should provide a framework for compliance. Your plan should contain sufficient detail to give confidence that you will be able to comply with all aspects of the DRS applicable to your business.

As a producer you may also be a retailer or wholesaler (as defined in the Regulations), however your operational plan does not need to include details of how you will comply with your obligations as a retailer or wholesaler.

Your operational plan should include sufficient detail about your operations to:

- allow us to assess your ability to comply with the Regulations;
- enable anyone unconnected with your operations to understand how you will discharge your obligations.

Your operational plan must comprehensively communicate **how** you will comply. It will not be acceptable to simply state that you will comply with the Regulations.

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<sup>2</sup> Details of Regulation 10 and 11 of The Deposit and Return Scheme for Scotland Regulations 2020 are available in Appendix 1

## Layout

To help SEPA assess your operational plan, please ensure you provide a clear outline of how you plan to meet your obligations. There is no word limit, but you need to provide enough detailed information that allows SEPA to properly assess your application.

You should structure your operational plan using the following headings:

1. Identifying scheme articles
2. Accepting returns of scheme packaging
3. Collecting scheme packaging
4. Deposit management
5. Reasonable handling fees
6. Record keeping
7. Collection targets
8. Waste management
9. Any other relevant information (if applicable – you should include any other information that you consider to be relevant to your own operations)
10. Declaration (this should be signed and dated by a relevant person)

Under each heading, you should provide detailed information on how you plan to meet the relevant obligations and reference how you will comply with Regulations 10 and 11.

Your operational plan is likely to require amendment over time. We recommend that you use numbered pages and paragraphs, so that any future approved changes are easier to track. It is your responsibility to ensure that you keep your operational plan up to date and notify SEPA of any relevant changes.

Producers registering through a scheme administrator are expected to operate in accordance with the scheme administrator's operational plan(s), which will cover all producers they represent. The scheme administrator will submit the registration application (including the operational plan) on behalf of the producers they represent.

## Identifying scheme articles

The Regulations require that a producer's operational plan contains relevant information to support the identification of scheme articles. It is important for the success of Scotland's Deposit Return Scheme (DRS) that scheme articles can be identified by producers, retailers, and consumers. Where scheme articles are not easily identifiable there is increased risk of fraud in the scheme with non-scheme or non-Scottish articles being returned in exchange for a deposit.

Although the Regulations do not call for specific identifiers to be placed on scheme articles you must provide details of how the scheme articles you produce will be identifiable as being within scope of the DRS. You should describe all methods of identification that will apply to your products. This could include, but is not limited to, descriptions of logos, labelling, barcodes or batch codes, which could be used by consumers, retailers, and your business to identify your products as scheme articles.

You should describe in detail how you will:

- identify and track the number of scheme articles you market, offer for retail sale or sell in Scotland;
- identify returned drink containers as being scheme packaging;
- ensure that consumers and return point operators know whether a drink container is in scope of the DRS.

If any of the scheme articles you produce are not readily identifiable as being within scope of the DRS, you should explain how you propose to mitigate the risk associated with this.

## Non-Scottish articles

If you produce non-Scottish articles, to be sold outside Scotland, you should explain how you will ensure these are not captured by Scotland's Deposit Return Scheme. If non-Scottish articles look the same as scheme articles there is a risk that deposits are paid to consumers for returning items that are not within scope of the scheme. If you will not be able to tell the difference between non-Scottish articles and scheme articles you should explain how you will manage this risk. Selling non-Scottish articles to customers in Scotland is an offence. Further guidance on what scheme articles, non-scheme articles and non-Scottish articles are can be found on [SEPA's website](#).

## Accepting returns of scheme packaging

As a producer you are required to accept the return of scheme packaging by a retailer or wholesaler of any scheme articles you sold to them. Critical to this is the ability of retailers and wholesalers to identify your scheme packaging and how to arrange for return to you, the producer.

In your operational plan you must:

- explain in detail how you will work with retailers and wholesalers to ensure scheme packaging can be identified and returned to you;
- provide sufficient detail about your operations to demonstrate you are set up to accept returns of scheme packaging;
- describe how you expect returns of scheme packaging to be made by retailers and wholesalers.

With all returns of scheme packaging, it is critical that you have the means to verify the material being returned. In your operational plan, you should describe the processes that you will have in place to physically accept the return of scheme packaging and for checking the validity of the returns. This is important to ensure that data collected and reported is accurate, and that deposits are only being redeemed for articles within scope of the scheme. Without verification of returns there is no way to be sure that the packaging returned is within scope of the DRS.

Your proposals for collection, storage and transportation of scheme packaging should take account of and not conflict with the [duty of care](#) for managing waste.

## Collecting scheme packaging

The Regulations obligate producers to collect scheme packaging from retailers (including hospitality businesses and online retailers offering takeback services) and return point operators.

As a direct registrant, you are responsible for collecting scheme packaging within the time limits specified in your operational plan. You must clearly state your time limits for collecting scheme packaging, how these time limits were determined, how you will manage requests for additional

unplanned collections and how you will ensure that your collections are frequent enough for each situation.

In addition, you should give as much information as possible to explain how you intend to manage the collection of scheme packaging. This should include:

- how you expect retailers and return point operators to store scheme packaging for collection;
- how you will communicate with retailers and return point operators about how they should store your scheme packaging (e.g., specific storage boxes for your products);
- how you will collect scheme packaging (e.g., third party courier);
- how you will manage to collect scheme packaging from all return point operators in Scotland;
- how retailers can communicate with you if they need additional collections;
- how you will handle complaints about collections.

## Deposit management

Scotland's Deposit Return Scheme involves charging and redeeming deposits to incentivise the recycling of scheme packaging. As a producer you are obligated to repay the deposit amount for each item of scheme packaging returned to you. Your operational plan should explain in detail how you will repay deposits, including a description of the systems you will have in place to manage this process.

As a direct registrant you will be responsible for ensuring that deposits are returned to return point operators, operators of takeback services and hospitality retailers in a timely manner. The Regulations require that time frames for deposits being returned must be set out in the producer's operational plan. You should consider the different routes that you will receive returns of scheme packaging and the time frame within which you would be able to return a deposit. You should provide evidence to support your time frame. It will not be acceptable to state that you will pay deposits as soon as possible.

An important element of deposit management is ensuring that the deposit is only reimbursed on scheme packaging and that this is only done once per item. You should explain in your operational plan what measures you will take to ensure this is the case.

You should also include details about how you will reimburse deposits e.g., electronic payment or cash.

## Reasonable handling fees

The Regulations allow for return point operators, takeback operators, and hospitality retailers to charge a reasonable handling fee to a producer for the collection and return of their scheme packaging. This fee takes into account various factors including staff time, reverse vending machine (RVM) costs and other costs associated with the collection and storage of scheme packaging. Full details of what can be included in the reasonable handling fee can be found in Regulation 11(4) of the Regulations<sup>3</sup>.

As a direct registrant you will be required to pay a reasonable handling fee to return point operators, operators of takeback services and hospitality retailers in a timely manner. The Regulations require that time frames for the handling fees being paid must be set out in a producer's operational plan. You should provide evidence to support your time frame. It will not be acceptable to state that you will pay the handling fees as soon as possible. You must also provide details of how the reasonable handling fee will be paid to retailers (e.g., BACS payment).

SEPA will not arbitrate in disagreements over what is considered a reasonable handling fee. Please include in your operational plan a description of how you will resolve disputes with any retailers regarding proposed handling fees.

## Record keeping

To demonstrate that you are meeting your obligations as a producer and that collection targets are being met you will be required to collect and make available on request certain data.

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<sup>3</sup> Details of Regulation 11 of The Deposit and Return Scheme for Scotland Regulations 2020 are available in Appendix 1.

Regulations 10 and 11<sup>4</sup> place obligations on producers to collect and keep information. The following information is required to be kept under Regulation 11(2):

- the number of scheme articles first made available by the producer to be marketed, offered for sale or sold for the purposes of its retail sale in Scotland;
- the material type that the packaging was principally made from (PET plastic, glass, steel or aluminium);
- the number of items of scheme packaging returned to the producer by wholesalers and retailers;
- the number of items of scheme packaging collected by the producer from each return point operator, retailer providing a takeback service and hospitality retailer.

You must clearly outline how you intend to collect and keep the information referred to in Regulation 11(2) and how you will verify the data is accurate. You should also make it clear how you will store the data to ensure that it remains safe and accessible for four years.

You will be required to provide this information to SEPA in a format and at intervals as SEPA may require.

## Collection targets

The main objective of Scotland's Deposit Return Scheme (DRS) is to increase the quantity and quality of waste materials captured for recycling. The Regulations include specific yearly collection targets for all materials that producers must meet.

Year	Collection target (%)
2024	80
2025 onwards	90

<sup>4</sup> Details of Regulation 10 and 11 of The Deposit and Return Scheme for Scotland Regulations 2020 are available in Appendix 1.

Producers are legally required to meet these collection targets and SEPA will be assessing compliance. Your operational plan should clearly demonstrate how you will achieve the collection targets and collect accurate data to demonstrate that you have met them.

You should describe in detail the actions you would take if it were identified that you missed the collection targets. For instance, if you did not meet your collection target, what would you do to ensure that more packaging is recovered the following year. Or, if your data showed that you had collected more than you placed on the market, how would you investigate this to ensure this is not because of fraudulent returns of non-scheme or non-Scottish articles.

## Waste management

Scheme packaging is waste. As such, any time you store or transport scheme packaging you must comply with all relevant waste management regulations and duty of care requirements.

You will need to demonstrate that you have understood your obligations regarding waste management and that you have procedures in place to deal with waste in a compliant manner. As a minimum you will need to provide evidence that you have plans in place for the [safe and compliant transport and storage of waste](#) by suitably authorised persons.

If you intend to store, sort, or treat waste packaging at your premises within Scotland, you will need some form of waste management authorisation from SEPA. More details on [waste authorisations](#) can be found on our website.

For guidance on waste duty of care you should refer to the Scottish Government's [Duty of care: code of practice for managing controlled waste](#).

## Future planning

As noted in the section on record keeping, the DRS Regulations require that you keep records for four years. This applies even if you cease to be registered as a producer, either because of a change in your business or through your registration being cancelled by SEPA. As such you must be prepared to keep the relevant records and be able to provide them to SEPA if requested.

If you were previously registered with the scheme administrator, you should provide details to SEPA on how you will separate your obligations from those of the scheme administrator.

## Declaration

The declaration forms an important part of the operational plan; it is a formal statement showing that producers understand and will comply with conditions of the Regulations. The declaration should be signed and dated on behalf of the business to show the producer's intention to comply.

The declaration must include confirmation that:

- The producer will submit a registration application within the time frame stated in the Regulations.
- The producer will provide any information reasonably required by SEPA regarding the producer obligations in Regulation 11(1).
- The producer will notify SEPA of any material change in the information provided in accordance with Regulation 7(3)(b) and (c), within 28 days of the date of the change.
- The producer will notify SEPA in writing where the producer wishes to cancel the registration or has ceased to be a producer in respect of a relevant year.
- Where a producer registration has been cancelled by SEPA or the producer has ceased to be registered, the producer will continue to comply with the following Regulations<sup>5</sup> as if that producer was still a registered producer:
  - (a) Regulation 11(1)(a) and (b);
  - (b) Regulation 11(1)(c) to (h).
- The producer will provide information to SEPA in a format and at intervals as SEPA may require.

## Submitting your operational plan

Your operational plan must be submitted to SEPA at the time that you make an application to register as a producer. It must be provided in .doc, .docx, .pdf or .odf format and uploaded as part of the online application process.

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<sup>5</sup> This is a requirement of Regulation 9 (7) and ensures a producer's ongoing responsibility for scheme packaging that they placed on the market for sale to consumers in Scotland.

## Updating your operational plan

Your operational plan should be kept up to date and accurately describe your operations in full. It is important that you review it regularly. Any change to your operational plan could constitute a material change to the information you provided at registration. SEPA will need to assess and approve any changes that may affect your ability to comply with your obligations.

## Note to applicants

We will work with drink producers to help you understand what your obligations are and what you need to do to comply. Further [information and guidance for producers](#) is available on the SEPA website.

SEPA will discuss with the applicant any details in the submitted operational plan that we consider to be unacceptable. If SEPA cannot be satisfied with any of the contents of the operational plan, we may refuse to grant or renew a producer's registration.

# Appendix 1: Regulation 10 and 11 of The Deposit and Return Scheme for Scotland Regulations 2020

## Regulation 10

### Producer obligations: general

10.(1) A registered producer must—

- (a) submit any subsequent application for registration within the time limits in regulation 7(2),
- (b) provide any information reasonably requested by SEPA with regard to the producer obligations in regulation 11(1) or, as the case may be, 12(2),
- (c) notify SEPA of any material change in the information provided in accordance with regulation 7(3)(b) and (c), within 28 days of the date of the change,
- (d) notify SEPA in writing where the producer wishes to cancel the registration or has ceased to be a producer in respect of a relevant year.

(2) The obligations in paragraph (1) must be discharged—

- (a) where the producer is registered in accordance with regulation 7(1)(a), by the producer, or
- (b) where the producer is registered through a scheme administrator, by that scheme administrator, in accordance with regulation 16(1)(a).

## Regulation 11

### Producer obligations: further provision

11.(1) A registered producer must—

- (a) collect and keep for at least four years from the date on which the information is collected a record of the information specified in paragraph (2),
- (b) provide that information to SEPA in such form and at such intervals as SEPA may require,
- (c) accept the return by a retailer or wholesaler of any scheme packaging that was—

(i) first made available by the producer to be marketed, offered for sale or sold for the purposes of its retail sale in Scotland, and

(ii) sold by that producer to that retailer or wholesaler,

(d) pay a sum equal to the deposit to a retailer or wholesaler for each item of scheme packaging returned in accordance with sub-paragraph (c),

(e) within the time limits specified in the producer's operational plan, collect scheme packaging first made available by that producer to be marketed, offered for sale or sold for the purposes of its retail sale in Scotland from any of the following—

(i) a return point operator,

(ii) a retailer operating a takeback service,

(iii) a hospitality retailer,

(f) within the time limits specified in the producer's operational plan, pay to a person from whom the producer has collected scheme packaging in accordance with sub-paragraph (e) a sum equal to the deposit for each item of scheme packaging collected,

(g) within the time limits specified in the producer's operational plan, pay to the person from whom the producer has collected scheme packaging in accordance with sub-paragraph (e) a reasonable handling fee charged by that person for each item of scheme packaging collected,

(h) meet the minimum collection targets specified in schedule 3 in respect of scheme packaging containing a scheme article first made available by that producer to be marketed, offered for sale or sold for the purposes of its retail sale in Scotland.

(2) The information referred to in paragraph (1)(a) is—

(a) the number of scheme articles first made available by that producer to be marketed, offered for sale or sold for the purposes of its retail sale in Scotland,

(b) whether the scheme packaging in which those scheme articles were contained or sold was made wholly or mainly from PET plastic, glass, steel or aluminium,

(c) the number of items of scheme packaging returned to the producer by wholesalers and retailers,

(d) the number of items of scheme packaging collected by the producer from each return point operator, retailer providing a takeback service and hospitality retailer.

(3) The obligations in paragraph (1) must be discharged—

(a) where the producer is registered in accordance with regulation 7(1)(a), by the producer, or

(b) where the producer is registered through a scheme administrator, by that scheme administrator, in accordance with regulation 16(1)(a).

(4) For the purposes of this regulation—

a “reasonable handling fee” is—

(a) a fee charged by a return point operator in relation to scheme packaging returned by a consumer to that return point that takes into account the following—

(i) the costs of purchase, lease, maintenance and upkeep of any reverse vending machine associated with the collection and storage of scheme packaging,

(ii) the cost of materials used in respect of the collection and storage of scheme packaging,

(iii) the rental value of any floor space utilised solely for the collection and storage of scheme packaging, and

(iv) staff time dedicated solely to the collection and storage of scheme packaging,

(b) a fee charged by a retailer providing a takeback service in relation to scheme packaging returned through that takeback service, that takes into account the following—

(i) costs associated with use of a vehicle to collect scheme packaging,

(ii) the cost of materials used in respect of the collection and storage of that scheme packaging,

(iii) the rental value of any floor space utilised solely for the collection and storage of that scheme packaging,

(iv) staff time dedicated solely to the collection and storage of that scheme packaging, and

(v) the delivery costs associated with return of that scheme packaging,

