

# **The Deposit & Return Scheme for Scotland Regulations 2020**

**Submission to the Scottish Government**

**December 2019**

# DRS for Scotland Regulations 2020

## Submission from FSB Scotland

### Introduction

The Federation of Small Businesses (FSB) is Scotland's leading business organisation and aims to help smaller businesses achieve their ambitions. These micro and small businesses comprise the majority of all enterprises in Scotland (98%), employ around one million people and contribute £68bn to the economy.

We welcome the opportunity to contribute views on the Draft Regulations for a Deposit and Return Scheme (DRS) for Scotland and respond on behalf of our members, since small businesses will be integral to making the scheme a success.

Small businesses continue to have three main concerns about the scheme; the space required in premises; the cost of the scheme to individual businesses and; the time it will take individual businesses to set up and administer.

Throughout our response we outline the six measures that could help mitigate these concerns:

#### Our top six asks for Scotland's DRS

1. Appropriate representation for small businesses on the board of any deposit return system operator to be essential if SEPA is to approve their operational plan;
2. Provision at the system operator's expense of safe and environmentally friendly equipment for retailers to collect and store empty drinks

containers, such as secure reusable crates for glass;

3. Where small retailers apply for and are granted an exemption from collections, the alternative return arrangements for the public in that area should be established by the system operator, not that individual small retailer;

4. Frequent and predictable collections of empty drinks containers, including options to provide extra ad hoc collections if required, either over the phone or via an app;

5. No detriment to small businesses taking part in the deposit system from other parts of the tax system, such as VAT and non-domestic rates; and

6. The proposed flat registration fee for producers to be replaced by a tiered system to avoid disproportionate costs for small Scottish drinks manufacturers.

### Scope (materials) – the types of container proposed to be covered and excluded and any specific issues

FSB have been cautious about including glass and called for it to be excluded from the scheme due to it being a bulky, heavy material that would cause issues for our members, particularly around safety and storage. However now that the material has been included in the scheme we would like to see it introduced with minimum impact

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and for it to work well for our members. As such we think that there should be provision at the system operator's expense of safe and environmentally friendly equipment for retailers to collect and store empty drinks containers, such as secure reusable crates for glass. This could abate some concerns around the inclusion of glass in Scotland's DRS.

### **Scope (retailers) – implications of the scheme applying to all retailers selling single-use drinks containers, including online retailers, and exclusion of businesses such as pubs and restaurant that sell drinks for on-site consumption**

#### **Exemptions**

FSB has continually argued for an exemption for the smallest of businesses, recommending that premises under 200sqft should be exempt from being required to take back returns. Whilst the regulations do not include a blanket exemption for these businesses we welcome the inclusion of exemptions where necessary. However we believe that placing the burden of finding an alternative return location on a business that is likely to have been deemed too small to accept returns is

unreasonable. Instead where small retailers apply for and are granted an exemption from collections, we believe, the alternative return arrangements for the public in that area should be established by the system operator, not that individual small retailer.

Further clarity should also be provided on what criteria a business must meet to apply for and be granted an exemption. We would suggest that partial exemptions are granted as well, such as a retailer being able to opt out of taking back materials they do not sell whilst still being a return point for those they do. Further retailers with a religious objection to handling alcohol should also be able to apply for an exemption from having to take back relevant containers. Whilst we recognise the Scottish Government will be keen to discourage exemptions to ensure wider coverage of the scheme, nonetheless, the process for requesting, processing and approving an exemption should also be simplified; it should be possible to do this online, for example.

#### **Pubs and Restaurants**

We are pleased to see the exclusion of hospitality businesses, such as pubs and restaurants that sell drinks for consumption on-site from taking back deposit bearing containers sold out-with their premises in the regulations. The drinks containers sold within these businesses are unlikely to leave the premises, particularly in restaurants

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and bars as in Scotland you cannot take an open container of alcohol out of a licenced premises. Running a closed-loop system therefore makes the most sense for the consumer and business alike.

### Online Retailers

Again FSB welcome the inclusion of online retailers in the regulations however the practical details of how this will work needs more clarity. Small retailers should not have the burden of taking back large quantities of containers sold online, whilst online retailers take back minimum returns. However we do believe that the smallest online retailers or producers should be able to apply for an exemption from providing a return service like their bricks and mortar counterparts.

**Costs and operational impacts – costs anticipated for your business, service or sector and the appropriateness of the proposed financing model (that the scheme will be funded via unredeemed deposits, revenue from the sale of materials and a producer fee)**

### Producers

The costs and operational impacts of the Scottish DRS will place a particular burden on producers. In order to avoid placing an excessive burden on the smallest producers, or start-ups, FSB has made the case for a threshold below which businesses do not pay the producer fee, for example, exempting start-up businesses for a set period of time, or exempting below a certain production threshold. At the very least we believe the producer fee should be a tiered system to avoid disproportionate costs for the smallest producers in this important sector of the Scottish economy. In addition to the producer fee we believe this tiered approach should also be extended to the proposed flat registration fee for producers so that small, independent producers are not paying the same as large multi-nationals.

### Handling Fee

FSB are pleased to see the inclusion of a “reasonable handling fee” in the regulations which takes into account a number of factors including rental value of floor space for DRS and staff time dedicated to the scheme. However as previously called for we would like to see a minimum service level agreement for a quick return to retailer of both the handling fee and the deposits they have refunded to customers, preferably a seven day turn around.

The proposed handling fee for hospitality retailers has been restricted to a much smaller amount than their

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retail only counterparts, this should be increased to cover their costs relating to the scheme. A hospitality retailer handling fee should take into account any administrative, staff, space or material costs associated with their participation.

### **Level of deposit – implications and appropriateness of a charge being a uniform 20p**

We believe that for ease of operation for both consumers and businesses that a flat deposit level for all materials and products included in the scheme is the best way for the system to operate.

### **Timing - implications of the proposed timeframe (a minimum 12-month implementation period from the passing of legislation)**

The commencement date of 1 April 2021 is an overly ambitious timescale for the implementation of a Scottish DRS, especially at this time of economic uncertainty. Whilst we understand the environmental need for the swift implementation of new recycling measures, the 12-month time-frame is incredibly tight for small businesses to prepare and for the Scottish Government and other delivery partners to effectively design, establish and communicate the variety of new

processes that will be required. We would urge the Scottish Government to provide appropriate advice and support throughout the implementation period. We would stress that if a no-deal Brexit occurs on the 31<sup>st</sup> January that the 12-month implementation period is paused or pushed back, so that businesses are able to deal with the economic shock.

### **Governance – how the scheme should be administered, and appropriateness of the proposal for scheme administrator that is industry-led, privately owned and operated on a not-for-profit basis**

FSB had previously called for the system ownership model to be publicly owned. However going forward with the scheme administrator being industry-led and privately owned we would encourage there to be appropriate representation for small businesses on the board of any deposit return system operator to be essential if SEPA is to approve their operational plan. This is to ensure that the interests of the smallest businesses – who will likely comprise the majority of retail premises affected but a minority of containers collected – many of whom will be in remote locations, are not disadvantaged.

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### **Broader waste policy context – will the scheme achieve its intended purpose in isolation, or does its success depend on the performance of broader measures? How should the scheme cooperate with any other proposed schemes in the UK?**

The scheme should be compatible with other DRS that operate throughout the UK to avoid cross-border fraud and to allow businesses that operate across the UK to do so seamlessly.

FSB would also like to ensure sharp practice from current waste collectors is avoided when the scheme is coming into force; for example, we would not want to see small businesses forced into signing up to a year-long waste contract in January 2021 when a DRS will be operational months later.

### **Any further issues or views not falling under the above areas**

#### **Collections**

We would like to see the scheme administrator to provide frequent and predictable collections of empty drinks containers, including options to provide extra ad hoc collections if required, either over the phone or via an app. This will ensure that return locations are able to manage the return of scheme materials adequately.

#### **Rates**

There should be no detriment to small businesses taking part in the deposit system from other parts of the tax system, such as VAT and non-domestic rates. FSB welcomed the First Minister's announcement that a 100% rates relief will be put in place from April 2020 onwards for reverse vending machines (RVM) to ensure that those businesses who invest in an RVM are not penalised through their rates bill. We would highlight that if control over business rates reliefs are passed to councils as a consequence of the Non-Domestic Rates (Scotland) Bill, this could lead to firms who invested in a RVM paying rates on the device. We would therefore urge Ministers to retain control of all nationwide reliefs.

## Further Information

For further information please contact Laura McKelvie [laura.mckelvie@fsb.org.uk](mailto:laura.mckelvie@fsb.org.uk)

The FSB campaigns for a better social, political and economic environment in which to work and do business. With a strong grassroots structure and dedicated Scottish staff to deal with Scottish institutions, media and politicians, the FSB makes its members' voices heard at the heart of the decision-making process. It is therefore recognised as one of Scotland's most influential business organisations. The FSB also provides a suite of services to help our members reduce the cost and risk of doing good business – from legal and tax protection to business banking.

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