

Circular Economy (Scotland) Bill

Business and Regulatory Impact Assessment (BRIA)

June 2023

Title of Proposal: Circular Economy Bill

1. This document is the Business and Regulatory Impact Assessment (BRIA) for the proposed Circular Economy Bill.

Purpose and Intended Effect

Background

2. A circular economy, first referenced in Pearce and Turner's study "Sustainable Economic Development",¹ is one which diverges from the traditional "take, make, waste" linear economy with open-ended cycles of production, and instead moves to a closed loop where waste is minimised or transformed back into inputs, and value is created and held within the economic system for as long as possible. The overall objective of a circular economy is to reduce the economic production-consumption system's raw material and energy throughput and costs.² In addition, it should contribute to achieving a better balance and harmony between economy, environment, and society.³
3. A circular economy is based on three principles which are driven by the desire for better design, according to the Ellen MacArthur Foundation.⁴ First, is the elimination of waste and pollution. This is achieved by thinking about waste and pollution as flaws in the design of products, rather than inevitable by-products of production. This change in thinking can lead to waste and pollution being minimised or not created in the first place. The second principle is to circulate products and materials which already exist in the system. Products can be better designed to be reused, repaired, or remanufactured. Through this, products should be able to be kept in circulation, so they do not end up in landfill. The final principle is to regenerate nature by returning nutrients to soil and other ecosystem, so that natural resources are enhanced. This is based on the principle that there is no concept of waste in nature.
4. Work to build the circular economy in Scotland directly relates to UN Sustainable Development Goal 12: Ensure sustainable consumption and production patterns. The European Commission's Circular Economy Action Plan, adopted in March 2020, is also relevant.⁵ Creating sustainable and inclusive growth is a key part of the National Performance Framework's

¹[Ethical foundations of sustainable economic development, The | IIED Publications Library.](#)

²[A review on circular economy: the expected transition to a balanced interplay of environmental and economic systems - ScienceDirect.](#)

³[Circular Economy: The Concept and its Limitations - ScienceDirect.](#)

⁴[What is a circular economy? | Ellen MacArthur Foundation.](#)

⁵[Circular economy action plan \(europa.eu\).](#)

(NPF) Purpose and the circular economy, in particular, contributes to the Environment and Economy outcomes. Progress on the NPF is measured through the carbon footprint and waste generated indicators.⁶

5. In the 2021-2022 Programme for Government,⁷ the Scottish Government committed to bring forward a Circular Economy Bill, to help facilitate the development of an economy which reduces demand for raw materials, designs products to last as long as possible and encourages reuse, repair, and recycling.
6. This Bill builds on the Circular Economy Strategy 'Making Things Last', published in 2016, alongside other policy work to embed the principles of a circular economy in Scotland and take action to make effective use of our planet's finite resources.
7. The Scottish Government has also developed and consulted on an associated Waste Route Map to help achieve Scotland's zero waste and circular economy ambitions. "Delivering Scotland's circular economy - route map to 2025 and beyond"⁸ aims to set the strategic approach to meeting goals between now and 2025, and looks beyond to 2030. It provides the basis to consolidate action, refocus efforts, and ensure greater policy coordination to help Scotland meet its waste targets and the ambitions set out in the Climate Change Update 2020. The Route Map identifies a range of additional legislative and non-legislative measures that can positively contribute to the delivery of the targets and make progress towards carbon reduction. It will also serve as a communication tool, and help to articulate both the ambitions and the pathway for delivering key objectives.

Objectives

8. The Circular Economy Bill should be seen in the context of the 2020 Climate Change Plan update, which set out a vision for 2045 where Scotland's cultural, social, and business norms would be driven by a focus on:
 - **Responsible production**, where a circular economy is embraced by the businesses and organisations that supply products, ensuring the maximum life and value from the natural resources used to make them.
 - **Responsible consumption**, where people and businesses demand products and services in ways which respect the limits of our natural resources. Unnecessary waste, in particular food waste, will be

⁶[National Performance Framework | National Performance Framework.](#)

⁷[A Fairer, Greener Scotland: Programme for Government 2021-22 - gov.scot \(www.gov.scot\).](#)

⁸[Delivering Scotland's circular economy - route map to 2025 and beyond: consultation - gov.scot \(www.gov.scot\).](#)

unacceptable in Scotland.

- **Maximising value from waste and energy**, where the environmental and economic value of wasted resources and energy is harnessed efficiently.
9. The Circular Economy Bill will establish the legislative framework to support Scotland's transition to a zero waste and circular economy, significantly increase reuse and recycling rates, and modernise and improve waste and recycling services. Our intention is to use the Circular Economy Bill to bring forward measures that require primary legislation, recognising that these are complemented by other legislative and non-legislative activities such as the ban on single-use plastic items, reform of producer responsibility schemes (particularly in relation to packaging), and investment in household recycling through the £70 million Recycling Improvement Fund.

Rationale for Intervention

10. The provisions within the Bill are mainly enabling in nature, setting out a framework that builds on existing Scottish Government policy on preventing and managing waste and promoting a circular economy, including through materials reuse, and recycling. It is intended to ensure that Scottish Government has the powers necessary within devolved competence to move Scotland towards a circular economy. The provisions in the Bill are summarised in table 1 below.

Description of Circular Economy Bill measures and rationale for intervention

Measure:

Circular economy strategy

Description:

Placing a duty on Scottish Ministers to publish or refresh a circular economy strategy every 5 years in order to direct national policy on the circular economy.

Rationale:

Strengthens existing approach by placing a duty on Scottish Ministers to publish or refresh a circular economy strategy every 5 years, which would bring together policies beyond legislation and give a clear indication of priority sectors and direction of travel for businesses and wider stakeholders. This will provide valuable information, such as improving the knowledge of particular consumption challenges and allowing better informed decisions by businesses and consumers. It will encourage resource-intensive industries to reduce their resource use in a systematic way.

Measure:

Circular economy targets

Description:

Developing statutory targets for the Scottish Ministers to provide a focus for action.

Rationale:

Setting targets will create a focus for action and maintain alignment with the direction of EU policy. It will encourage ambition on a wider range of factors that contribute to the overall level of waste and promote measures upstream from waste collection.

Measure:

Restrictions on the destruction of unsold consumer goods

Description:

Providing powers to limit the destruction of unsold goods, in order to reduce wasteful practice.

Rationale:

Signal to businesses to plan carefully when buying stock, to ensure that environmentally irresponsible stockpiling of goods during busy times and throwing away of stock during quiet times are minimised. The aim is to reduce the volume of business waste going to landfill and incineration.

Measure:

Charges for single use items

Description:

Creating a power to set a minimum charge for certain throwaway items in order to

Measure:
Littering from vehicles

Description:
Establishing a new civil penalty regime that will make the keeper of a vehicle liable to pay a penalty charge in respect of a littering offence committed from that vehicle.

Rationale:
This power will make it easier to issue fines for littering from vehicles and should act as a greater deterrent against littering offences.

Measure:
Enforcement powers in respect of certain environmental crimes

Description:
Improving enforcement against fly-tipping and other waste crime through a power allowing the Scottish Environment Protection Agency (SEPA) and local authorities to seize vehicles involved in specified waste crime.

Rationale:
Strengthening powers to disrupt waste crime operations by the seizure of implicated vehicles.

Measure:
Reporting on waste, surpluses, etc

Description:
Obtaining information about where waste is occurring through a power to require information which would lead to public reporting of waste and surplus by businesses (the intention is for this initially to be applied to information about food).

Rationale:
More comprehensive publicly available data may allow for more effective pressure on businesses to reduce waste and the identification of potential economic

Consultation within Government

11. The Bill has been developed by the Scottish Government. A wide range of directorates within the Scottish Government, agencies, non-departmental public bodies and other organisations have been consulted during the development of the bill, including:
 - Economic Development Directorate
 - Environment and Forestry Directorate
 - Rural and Environmental Science and Analytical Services Division
 - Scottish Environment Protection Agency
 - Zero Waste Scotland.

Public Consultation

12. A partial BRIA¹⁰ document was published alongside the Scottish Government consultation paper on proposals for a Circular Economy Bill.¹¹ The consultation was launched on 30th May 2022 and ended on 22nd August 2022. Respondents were asked to consider 13 policy proposals contained within the Circular Economy Bill, by answering 40 questions (8 closed questions, 32 open free text questions). These questions were grouped across four sections: Strategic Interventions; Reduce and Reuse; Recycling; and Littering and Improving Enforcement.
13. A full analysis of the consultation responses was published in November 2022.¹² This was based on 1,681 responses, which included 314 responses through the Citizen Space portal, 1,333 organised campaign responses (of which 1,319 were standard and 14 non-standard) and 34 email responses. The breakdown of respondent type are as follows: 295 responses from individuals, 142 from organisations including waste management sector, environmental consultancies, public interest groups, and 1,244 for which this information was not available.
14. The consultation question on the BRIA received 138 responses, some of which were detailed. Several themes were identified in the responses, including:
 - There would be an increased cost and burden to businesses and sectors.
 - There would be short-term increased costs, which are likely to be offset by

¹⁰[Circular Economy Bill proposals: partial BRIA - gov.scot \(www.gov.scot\).](https://www.gov.scot/publications/circular-economy-bill-proposals/partial-bria/)

¹¹[Delivering Scotland's circular economy: a consultation on proposals for a Circular Economy Bill - Scottish Government - Citizen Space.](https://www.gov.scot/publications/delivering-scotland-circular-economy-consultation-on-proposals-for-a-circular-economy-bill/citizen-space/)

¹²[Delivering Scotland's circular economy: Proposed Circular Economy Bill - Consultation analysis - gov.scot \(www.gov.scot\).](https://www.gov.scot/publications/delivering-scotland-circular-economy-proposed-circular-economy-bill-consultation-analysis/)

- savings in the long-term.
 - Increased costs and burdens were not important relative to the need to implement circular practices and measures.
 - Burdens will be disproportionately felt by small businesses, rural communities and those less privileged; and support will be required from the Scottish Government.
15. The majority of respondents expressed the view that the proposals would be likely to lead to an increase in costs and burdens placed on businesses and industry sectors. Some specified that food and drink businesses would be most impacted, while others suggested that all businesses and sectors would experience an increase in costs. Some responses cited additional infrastructure, taxes and levies as the cause of cost increases. Some respondents felt that the cost impact on businesses would be passed onto the consumer.
 16. Many respondents accepted that there would be initial cost increases, but that these would later result in longer term cost savings such as reduced procurement costs, increased reuse and reduced waste disposal costs. Some respondents mentioned that although they expected there to be an increase in costs, extreme measures are necessary. Some suggested that the cost to businesses should depend on a business's environmental impact. Some respondents also believed that the increased costs would be mitigated by maximising the use of technology and through innovation.
 17. Although respondents mentioned the increase in costs and burdens for businesses and sectors generally, some argued that this would affect disproportionately SMEs, rural communities and more vulnerable groups. Many respondents highlighted the need for the Scottish Government to engage with businesses and stakeholders. Some suggested that this would be required across all affected sectors in order to assess the impact of the proposals and to mitigate these. It was noted that this would be necessary during and after the implementation of any measures. Respondents also suggested that assistance and support would be needed in order for businesses to manage operational changes and to provide guidance on circular economy principles. Very few respondents cited a reduction in costs as a possible outcome of the proposals contained in the consultation.
 18. A partial BRIA document was also published alongside a Scottish Government consultation on a National Litter and Flytipping Strategy.¹³ The consultation ran from December 2021 to March 2022 and sought views on the draft Strategy, which included a range of actions focused on improving litter and flytipping enforcement.
 19. Enforcement and deterrents have been identified as important in preventing litter and flytipping. This stems from numerous stakeholder calls to review the enforcement process and procedures, and to attempt to understand if alternative solutions are available (such as education or volunteering for those who cannot afford to pay fines), with collaborative measures seen as crucial. Success in relation to this theme would ensure there is a strong and consistent enforcement model across Scotland that acts as a proportional deterrent.

¹³[National litter and flytipping strategy consultation – Scottish Government – Citizen Space.](#)

20. Businesses, like many organisations, participated in the above public consultation and expressed broad support for the proposed actions. There is a recognition of the impacts on different types of businesses including landowners who have to deal with flytipping on their land, businesses who suffer losses due to either direct damage or the decline in amenity from litter and flytipping and those whose products are associated with litter or flytipping.

Business

21. Businesses and business groups were included as part of the public consultation. Full impact assessments will be produced when the powers are used to make specific regulations.

Option 1: No policy change – business as usual

22. Business as usual is the baseline against which the costs and benefits of the implementation of the new Circular Economy Bill will be assessed.
23. This baseline accounts for policies and regulation that are expected to come into force and that will impact on the proposed policy options covered in the Circular Economy Bill. Included are: the biodegradable municipal waste landfill ban (2025), and the packaging Extended Producer Responsibility scheme (2024).
24. Under this scenario, it is assumed that the current trajectory of a circular economy in Scotland would remain unchanged.
25. Many of the negative environmental externalities associated with the linear economy will continue to remain undervalued.

Costs and Benefits (no policy change)

26. No additional financial costs or burdens will be placed on local authorities and enforcement bodies in Scotland. The cost of waste and its environmental externalities will continue to be borne by public bodies, businesses, and communities.

Option 2: Implementation of Circular Economy Bill Provisions

27. The proposals within the Circular Economy Bill are mainly enabling powers to make future secondary legislation. Some preliminary cost benefit analysis of the measures identified in the Bill are detailed below, however at the point when detail of the secondary legislation or related provisions are being developed, full impact assessments will be undertaken.

Sectors and Groups affected

28. The following sectors and groups would be directly or indirectly impacted by the Circular Economy Bill proposals:
- Households
 - Manufacturers, distributors and retailers
 - Online marketplaces
 - Consumers
 - Local Authorities
 - Scottish Environment Protection Agency
 - Third Sector
 - Waste Management Sector
29. At this stage it is not apparent to what extent different sectors and groups would be impacted. The results from the public consultation process have been used to inform our understanding in this area and a detailed analysis of how these groups are impacted by the specific interventions presented in separate impact assessments will be undertaken if and when associated strategies and secondary legislation are developed.

Costs and Benefits (Implementation of Circular Economy Bill Proposals)

30. Society may benefit from a reduction in the volume of waste generated through preventative measures, such as an overall reduction in consumption of resources, and from more effective and efficient waste management processes. This should improve local environments and neighbourhoods and reduce the negative environmental impacts of waste entering the terrestrial and marine environments. Additionally, the business sector stands to benefit if we can offer higher quality, clean recycle. It will act as an incentive for recycling companies to build recycling facilities in Scotland, benefitting the environment and providing employment opportunities.
31. Costs associated with the introduction of specific, proposed measures may include additional enforcement costs for public bodies, administrative costs for businesses and any changes as a result of the proposed review of current

household waste and recycling charging, such as garden waste collections. These are explored in more detail below.

32. **Circular Economy Strategy:** The Bill places a duty on Scottish Ministers to publish or refresh a circular economy strategy every 5 years in order to direct national policy on the circular economy which would bring together policies beyond legislation and give a clear indication of priority sectors and direction of travel for businesses and wider stakeholders. This will provide valuable information such as improving the knowledge of particular consumption challenges and allowing better informed decisions by businesses and consumers. It will encourage resource-intensive industries to reduce their resource use in a systematic way.
 33. The Bill sets out that Ministers should have regard to priority sectors and systems based on research. For example, the recently published Circularity Gap Report¹⁴ for Scotland identifies sectors and systems such as the built environment, food and manufacturing as particular priorities.
 34. Any sector or system specific content would be developed in collaboration with relevant sectors with the aims of minimising that sector's resource requirements and developing sustainable business models. Any strategy would also be subject to full consultation and a full suite of impact assessments including a BRIA.
- Benefits (Option 1 – not introducing Circular Economy Strategy Provisions)
35. Scottish Ministers would have the flexibility to choose to publish a circular economy strategy as and when they deemed appropriate.
- Benefits (Option 2 – legislate for a Circular Economy Strategy)
36. The process of commissioning, drafting, consulting and reporting on a circular economy strategy will introduce a high level of rigour, transparency, scrutiny and parliamentary accountability to the work being undertaken by the Scottish Government to develop a circular economy. This would also ensure circular economy principles are taken account of across different Scottish Government policies, which will create economic opportunities for both businesses and communities and provides consumers with more sustainable alternatives to consumption. Minimising resources and moving to more circular business models businesses can directly reduce costs.
- Costs (Option 1 – not introducing Circular Economy Strategy Provisions)
37. Circular economy policies would not have the same influence across policy and could risk being sidelined for other priorities. A more circular economy provides both business opportunities and can lead to more resilient supply chains and it is likely these benefits would not be maximised.
- Costs (Option 2 - legislate for a Circular Economy Strategy)
38. There may be opportunity costs for businesses that do not adapt to become more circular and maintain business models based on a linear economic model. There would be an ongoing resource requirement to refresh and report on the strategy.

¹⁴ [CGR Scotland \(circularity-gap.world\)](https://www.circularity-gap.world/)

Sectors and groups affected

- Households
- Manufacturers, distributors and retailers
- Online marketplaces
- Consumers
- Local Authorities
- Scottish Environment Protection Agency
- Third Sector
- Waste Management Sector

39. **Circular Economy Targets:** The Bill includes powers to set statutory targets through secondary regulations to provide a focus for action and certainty in direction of travel across circular economy policy. Setting targets will create a focus for action and maintain alignment with the direction of EU policy. It will encourage ambition on a wider range of factors that contribute to the overall level of waste and promote measures upstream from waste collection.
40. Any targets would be underpinned by a monitoring framework that would first be developed. The provisions set out a non-exhaustive list of the areas that targets may relate to, including reducing the use of materials, reuse, recycling and reducing waste.
41. Any regulations would be subject to detailed impact assessments, including a BRIA, at which point a full analysis would be made of costs and benefits.

Benefits (Option 1 – no powers for Circular Economy Targets)

42. Targets could be set by Scottish Ministers on a non-statutory basis which would allow targets to be set through ongoing policy development.

Benefits (Option 2 – powers for Circular Economy Targets)

43. Statutory targets would provide a focus for action and certainty of policy direction. The requirement for consultation would ensure broad engagement and that targets are based on available data and an agreed understanding of the costs and benefits of individual targets. Statutory targets would also ensure that circular economy considerations are embedded across Scottish Government policy. Targets provide a clarity of purpose and certainty of policy direction for businesses seeking to invest. They can also drive business practices towards more sustainable models and influence support and assistance available to businesses.

Costs (Option 1 – no powers for Circular Economy Targets)

44. Any circular economy targets would not receive the same prominence as other statutory targets, e.g. climate change targets, and therefore would not

have the same ability to influence cross-cutting policy considerations. The negative environmental externalities associated with the linear economy will continue to remain undervalued.

Costs (Option 2 - powers for Circular Economy Targets)

45. There would be resource costs in terms of developing and legislating for targets and also potential monitoring costs. Businesses may have to adapt business practices if they are currently focused on a linear economic approach.

Sectors and groups affected

- Households
- Manufacturers, distributors and retailers
- Online marketplaces
- Consumers
- Local Authorities
- Scottish Environment Protection Agency
- Third Sector
- Waste Management Sector

46. **Restrictions on the disposal of unsold consumer goods:** This would provide powers to limit the destruction of unsold goods, in order to reduce wasteful practice and unsustainable behaviour. Signal to businesses to plan carefully when buying stock, to minimise environmentally irresponsible stockpiling of goods during busy times and throwing away of stock during quiet times. The aim is to reduce the volume of business waste going to landfill and incineration.

Benefits (Option 1 – no powers to restrict the disposal of unsold consumer goods)

47. Businesses will have no requirement to change practices, and therefore no burden, financial or administrative, will fall on them.

Benefits (Option 2 – powers to restrict the disposal of unsold consumer goods)

48. Placing restrictions on the disposal of unsold consumer goods would keep goods and resources in circulation for longer. Goods could also be redirected to third sector organisations, for example, charities supporting those in need. Based on French research, on a per capita basis, the amount of goods destroyed via landfill and incineration could have a total value of approximately £22 million (although any regulations would require further Scotland based research). Businesses would avoid costs associated with the destruction of goods via landfill or incineration, with average costs of around £125-180 per tonne for landfill and £90-110 per tonne for

incineration.

Costs (Option 1 – no powers to restrict the disposal of unsold consumer goods)

49. Goods that could be used would continue to be disposed of wastefully and unsustainably.

Costs (Option 2 - powers to restrict the disposal of unsold consumer goods)

50. Some businesses may have to change existing business practices. There would be enforcement costs for SEPA, estimated between £30,000-200,000 per annum depending on the enforcement model.

Sectors and groups affected

- Manufacturers, distributors and retailers
- Online marketplaces
- Consumers
- Local Authorities
- Scottish Environment Protection Agency
- Third Sector
- Waste Management Sector

51. **Charges for single use items:** The first priority in a more circular economy is to avoid unnecessary waste and use fewer resources. This measure would create a power to set a minimum charge for certain throwaway items in order drive waste reduction and greater use of reusable items. Existing charges, such as single-use carrier bags, demonstrate that charges can result in substantial reductions in item use.

52. Research from the Expert Panel on Environmental Charging and Other Measures (EPECOM) showed a 20p charge on single-use coffee cups would be sufficient to change the behaviour of 49% of the population.

Benefits (Option 1 – not charging for single use items)

53. Businesses could continue with current business models and there would be no incentive for consumers to change behaviours.

Benefits (Option 2 – charging for single use items)

54. Charging for single use items will encourage increased use of reusable alternatives. For example, Scotland's current single-use cup use creates 5441.8 tonnes of waste every year, of which 96% is landfilled. If applied to single use cups, this power will reduce the volume of cups going to landfill waste. Research suggests that a charge on cups could result in a 15-19%

reduction in the use of single-use disposable cups, an annual waste disposal saving of £174,600-£453,960 and litter collection saving of £583-£1,516 per annum for local authorities. Regulations would allow Ministers to specify how net proceeds raised by such charges could be allocated, for example, to the advancement of environmental protection or improvement.

Costs (Option 1 – not introducing charges for single use items)

55. Businesses could continue with current business models that facilitate unsustainable behaviours.

Costs (Option 2 – Introducing charges for single use items)

56. There may be some enforcement costs for local authorities. There would also be a cost to customers purchasing a single-use item, although this can be avoided by using a reusable alternative (which would have upfront costs). Consumers may find carrying a reusable alternative inconvenient. The Bill allows for the regulations to set out how the net proceeds raised by the charge are to be ascertained, for example, to allow for the deduction of “reasonable costs” incurred by the supplier to comply with the regulations.

Sectors and groups affected

- Manufacturers, distributors and retailers
 - Online marketplaces
 - Consumers
 - Local Authorities
 - Scottish Environment Protection Agency
 - Third Sector
 - Waste Management Sector
57. **Householders duty of care in relation to waste:** This measure will ensure householders are clear about their duty of care obligations in relation to the disposal of household waste and will also grant local authorities the means to enforce breaches of the householders duty of care by fixed penalty notices as an alternative to criminal prosecution. This will aid in the enforcement of flytipping offences involving household waste which can be traced back to a particular household and will bring Scottish duty of care provisions in line with those in England and Wales.
58. Powers will also enable local authorities and other relevant bodies to enforce breaches to householders duty of care relating to household waste collections e.g. contaminating recycling bins.
59. As these provisions are focused on householders there is not expected to be an impact on businesses..

- Benefits (Option 1 - no change to current householders duty of care)
60. There would be no additional enforcement burden on local authorities.

- Benefits (Option 2 – change to current householders duty of care)
61. Fixed Penalty Notices will act as a deterrent to flytipping and could have a positive impact on clear up costs associated with flytipping. It has been estimated that for every 1% reduction in fly-tipping, there would be a potential saving of around £109,000 in local authority costs.¹⁵ This will provide clarity for businesses as this brings consistency with practices in England and Wales.

62. Powers will also enable local authorities and other relevant bodies to enforce breaches to householders duty of care relating to household waste collections. This should ensure fewer incidents of recycling contamination, leading to a higher volume and quality of recyclate collected.

- Costs (Option 1 – no change to current householders duty of care)
63. Should householders continue to be unclear on their responsibilities under the duty of care for householders in relation to waste, the continued impact of fly-tipping will remain a financial and environmental burden on Scotland.

- Costs (Option 2 - change to current householders duty of care)
64. There will be initial enforcement costs for local authorities, however there is potential for some of these costs to be offset through the payment of fines.

Sectors and groups affected

- Households
 - Local Authorities
 - Scottish Environment Protection Agency
 - Waste Management Sector
65. **Targets for waste collection relating to household waste recycling**
Powers to enable Scottish Ministers to set recycling targets (including recycling, preparation for reuse and composting) for local authorities, with the potential to introduce financial incentives or penalties should the targets not be met
66. Currently recycling performance varies significantly between local authorities. Recognising that service providers must have the tools available to meet the required standard, in line with high performing nations and regions, this measure will seek to drive up performance across local

¹⁵ Based on information on the total clearance costs associated with fly-tipping. From 'Scotland's Litter Problem' Report, Scotland's Litter Problem (zerowastescotland.org.uk)

authorities.

67. As this measure is focused on local authorities, there are not expected to be any direct impacts on businesses. However, there will be implications for local authorities and any future regulations will be subject to a full suite of impact assessments including a BRIA.

Benefits (Option 1 – not introducing targets for waste collection relating to household waste recycling)

68. No additional costs would be associated with household recycling targets and no additional administrative or financial burden would exist for business, public authorities or regulatory bodies.

Benefits (Option 2 – Introducing targets for waste collection relating to household waste recycling)

69. The business sector stands to benefit if Scotland can offer higher quality, clean recycle. It will act as an incentive for recycling companies to build recycling facilities in Scotland, benefitting the environment and providing employment opportunities.

Costs (Option 1 – not introducing targets for waste collection relating to household waste recycling)

70. Recycling rates are variable across Scotland, varying both by geography, but also by housing type and levels of deprivation. The continued lack of consistency in recycling provisions and rates creates an environmental cost as more waste is sent to landfill.

Costs (Option 2 – Introducing targets for waste collection relating to household waste recycling)

71. Costs on local authorities will be dependent on the range of and nature of targets, the design of which will be for future regulations which will be developed in partnership with local authorities. There may be some monitoring and reporting costs for SEPA depending on targets.

Sectors and groups affected

- Households
- Local Authorities
- Scottish Environment Protection Agency
- Waste Management Sector

72. **Code of Practice on Household Waste Recycling:** This measure gives powers to place further requirements on local authorities regarding household collection services in order to increase rates and quality of household recycling, As this measure is focused on households, it will not have a direct impact on businesses, however it will increase the economic value that can be gained from materials sent to the increased amount and quality of recycled materials that will be collected.

Benefits (Option 1 – no change to household waste requirements)
No additional costs would be associated with household recycling collection services and no additional administrative or financial burden would exist for business, public authorities or regulatory bodies.

Benefits (Option 2 – Change to household waste requirements)

73. The business sector stands to benefit if Scotland can offer high quality, clean recycle, then recycling companies will come to Scotland to build recycling facilities. That is good for the environment, for jobs and for Scotland. higher quality, clean recycle. It will act as an incentive for recycling companies to build recycling facilities in Scotland, benefitting the environment and providing employment opportunities.

Costs (Option 1 – no change to household waste requirements)

74. Local authorities would continue to receive reduced income due to contaminated material that has been collected for recycling and suffer higher disposal costs for sending more waste to landfill and incineration.

Costs (Option 2 – change to household waste requirements)

75. Indicative staff costs for enforcement of £57,000 - £73,000 (per local authority dependent on size) subject to regulation and guidance. The key cost on households would be as a result of any penalty charge or fixed penalty notice under these powers to enforce the existing recycling duty of care. The current civil penalty charge for a breach of section 46 requirement in England is £60 unless otherwise defined by an authority. The current fixed penalty amount in Wales is £100.

Sectors and groups affected

- Households
 - Local Authorities
 - Scottish Environment Protection Agency
 - Waste Management Sector
76. **Littering from vehicles:** In June 2014, the Scottish Government published the country's first National Litter Strategy "Towards a Litter Free Scotland: A Strategic Approach to Higher Quality Local Environments."¹⁶ The strategy recognised the important role of enforcement alongside a focus on prevention in changing littering behaviours. The National Litter Strategy made a commitment to look for a suitable opportunity to legislate to remove barriers to enforcement in relation to littering from vehicles.
77. A review of this strategy was completed in November 2019 by Scottish Government with Zero Waste Scotland and other key partners. The review found that although progress has been made on key fronts, there are significant ongoing concerns about volume of litter, and specifically

¹⁶[Towards a litter-free Scotland: a strategic approach to higher quality local environments - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/towards-a-litter-free-scotland-a-strategic-approach-to-higher-quality-local-environments/pages/11.aspx)

roadside litter, and observed that future focus should include pursuing new powers that were proposed in the Circular Economy Bill.

78. This enabling power will allow a fixed penalty notice to be issued to the registered keeper of a vehicle when a littering offence has been committed from that vehicle. This will both increase the deterrent effect and the options available to enforcement officers in tackling roadside littering.
79. A more detailed breakdown of the likely costs and benefits to Local Authorities will be provided in the BRIA which will accompany the relevant secondary legislation. It is not expected that businesses will be severely impacted by the fixed-penalty regime

Benefits (Option 1 – no powers to issue Fixed Penalty Notices for littering from vehicles)

80. There are no benefits identified.

Benefits (Option 2 – no powers to issue Fixed Penalty Notices for littering from vehicles)

81. Fixed Penalty Notices will act as a deterrent, reducing the number of littering offences committed and, ultimately, reducing the amount of litter which needs to be removed from roadsides. Around 600 tonnes of litter is found on Scottish roadsides every year, with litter present on over 80% of Scotland's motorways and A-roads.¹⁷ With an estimated clear-up cost of over £800 per tonne, roadside litter poses a significant cost to local authorities (and Trunk-Road Operators).¹⁸ It is estimated that every 1% reduction in roadside litter would mean a saving of £4,000 in clear-up costs to local authorities.

Costs (Option 1 – no powers to issue Fixed Penalty Notices for littering from vehicles)

82. Local authorities will still need to meet costs of dealing with higher levels of roadside litter.

Costs (Option 2 – powers to issue Fixed Penalty Notices for littering from vehicles)

83. Estimated cost to litter authority of £34-£102 per fixed penalty notice, although this would be offset by an estimated charge of £80 per notice. Based on the current littering penalty regime, an individual or business could be liable for a fixed penalty notice of £80, rising to a maximum fine of £2,500 if resulting in a prosecution for non-payment of the fixed penalty notice. It is assumed that the processing of payment of any penalty by a business would be absorbed within existing staff resource and therefore would be a negligible cost.
84. Minimal cost to businesses is associated with processing any fines and passing these on to the relevant member of staff caught littering, where company vehicles have been involved.

¹⁷ [Roadside Litter | Keep Scotland Beautiful](#)

¹⁸ [£6 million cost to collect litter on motorways – Bag and Bin it, Highways Agency asks road users - GOV.UK \(www.gov.uk\)](#)

Sectors and groups affected

- Households
- Local Authorities
- Scottish Environment Protection Agency

85. **Enforcement powers in respect of certain environmental crimes (seizure of vehicles):** Litter and flytipping contribute to climate change in two main ways. Litter and flytipping are wasted resources that have been lost from the circular economy. As well as the embodied energy of the resource itself being wasted, further energy is required to collect and process the litter or flytipping, most of which can then only be sent to energy from waste or landfill, due to the poor quality of the material.

86. This new enabling power will improve enforcement against flytipping and other waste crime through a power allowing SEPA and local authorities to seize vehicles involved in specified waste crime. The aim is to both increase the deterrent effect and the options available to enforcement officers in tackling roadside littering. These new enforcement powers are therefore expected to reduce both the direct and indirect costs of litter in Scotland.

87. Any future secondary regulations would be subject to detailed impact assessments, including a BRIA, at which point a full analysis would be made of costs and benefits.

Benefits (Option 1 – not introducing powers related to seizure of vehicles)

88. No benefits have been identified.

Benefits (Option 2 – introducing powers related to seizure of vehicles)

89. The ability to seize vehicles associated with waste crime without the need to obtain a warrant will reduce the costs of enforcement for seizure authorities and for the entities currently responsible for granting a warrant. The deterrent effect is expected to reduce the number of flytipped items in Scotland and thereby reduce costs for local authorities - for every 1% reduction in flytipping, there would potentially be a saving of around £109,000 in local authority costs.¹⁹ The new powers are expected to benefit legitimate businesses that deal with waste, as they will help create a level playing field, if those who undercut the market by disposing of waste illegally are subject to more effective enforcement action. These powers will bring Scotland's legislative provisions in line with those in England and Wales.²⁰

Costs (Option 1 – not introducing powers related to seizure of vehicles)

90. Legitimate businesses that deal with waste will remain at risk of being undercut by

¹⁹ Based on information on the total clearance costs associated with fly-tipping. From 'Scotland's Litter Problem' Report, [Scotland's Litter Problem \(zerowastescotland.org.uk\)](http://zerowastescotland.org.uk)

²⁰ [The Control of Waste \(Dealing with Seized Property\) \(England and Wales\) Regulations 2015 \(legislation.gov.uk\)](http://legislation.gov.uk)

those that dispose of waste illegally. Enforcement against flytipping will not be improved and there will be ongoing costs associated clean-up costs.

Costs (Option 2 – introducing powers related to seizure of vehicles)

91. The Scottish Government estimates that it will cost between £2,000 and £4,000 to carry out the physical seizure of the vehicle (2019 figures). This includes the cost of collection, storage and disposal by SEPA. The total costs of vehicles seizures to the enforcement authorities is estimated to be between £3,488 and £13,950 per annum (2019 figures). It could potentially affect businesses with company vehicles and businesses operating in the car rental industry, where vehicles rented or used by employees may be used for waste crime.

Sectors and groups affected

- Households
 - Manufacturers, distributors and retailers
 - Online marketplaces
 - Local Authorities
 - Scottish Environment Protection Agency
92. **Reporting on waste, surpluses, etc:** There is an increased recognition that over-consumption and over-reliance on “new” materials in production processes is damaging to the environment and there is an ongoing need to focus on becoming a circular economy that better uses and reuses resources.
93. The main aim of introducing mandatory reporting on waste, surpluses, etc. is to encourage innovation to tackle wasteful practices and increase efficiencies in practices and encourage more targeted action. A way to encourage changes is to enable the better monitoring and management of waste, by placing public reporting duties on businesses to report on waste and surplus which will result in increased accountability and transparency.
94. This power would enable Scottish Ministers to mandate the public reporting of waste and surpluses by businesses. The intention is for this initially to be applied to information about food waste, then extended to other sectors.
95. Any future secondary regulations would be subject to detailed impact assessments, including a BRIA, at which point a full analysis would be made of costs and benefits.

Benefits (Option 1 – not introducing powers related to report on waste and surplus)

96. Businesses could continue to operate as they see fit and report on a voluntary basis.

Benefits (Option 2 – introduce powers related to report on waste and surplus)

97. Businesses could benefit from associated reductions in the production of waste which can have significant disposal costs. Research by the Waste and Resources Action Programme (WRAP) showed a median return of £14 for every £1 invested by companies tackling food waste.²¹
98. The transparency of waste data will also highlight economic opportunities linked to alternative uses of waste as a resource. Enabling the sharing of best practice and lessons learned while ensuring businesses are accountable for the waste they produce, their management of surpluses, and the actions they undertake to reduce it, can bring reputational benefits.

Costs (Option 1 – not introducing powers related to report on waste and surplus)

99. Businesses will not be encouraged to minimise waste and thereby reduce costs.

Costs (Option 2 – introduce powers related to report on waste and surplus)

100. There will be some costs to businesses including familiarisation costs associated with staff taking time to understand reporting requirements and set-up costs in terms of IT systems. It is possible to provide some illustrative estimates of set-up, ongoing reporting and staff costs, based on similar policy proposals in the rest of the UK. Based on information from Department for Environment, Food and Rural Affairs consultation with businesses, it is estimated that large businesses (those with 250 or more employees) could face one-off set-up costs of between £10,000 and £20,000 per business. The estimate for medium-sized businesses (50-249 employees) is between £1,000 and £2,500 per business.
101. Businesses would also face ongoing costs of reporting. It is estimated that a large or medium-sized business would require between 2.5 and 12.5 days of staff time per year for reporting at a headquarter level. Assuming a living wage cost (uprated for pension and employer national insurance contributions) this would represent an annual cost of between £200 and £1,200 per business.²²
102. There will also be costs associated with enforcement. This will be dependent on the detail of regulations which will be informed by future consultation, however an indicative range of potential costs for SEPA is of between £50,000 per year and £300,000 per year for the core function plus up to £720,000 in set up costs to develop IT systems, production of guidance and communications.

Sectors and groups affected

- Manufacturers, distributors and retailers
- Local Authorities
- Scottish Environment Protection Agency
- Third Sector

²¹ [The Business Case for Reducing Food Loss and Waste | WRAP](#)

²² [Impact Assessment Improved Food Waste Reporting 2022.pdf \(defra.gov.uk\)](#)

Regulatory and EU Alignment Impacts

Intra-UK Trade

103. This section assesses the potential impacts of the preferred option on whether this measure is likely to impact on intra-UK trade.
104. During the 2022 consultation,²³ responses showed that circular economy targets were seen as important to benchmark progress towards circularity. However, there was also a need for policy alignment across the UK and consideration for how these statutory targets would interact with incoming environmental policies, such as Extended Producer Responsibility (EPR) to avoid unintended consequences or perverse incentives. The charging for single use items proposal is intended to be used to introduce a minimum charge on single use cups and the intra-trade impact of these regulations will need to be assessed more fully.
105. It was thought by some respondents that there should be a focus on harmonised requirements across the UK, with the UK Government and Devolved Administrations, so that businesses may operate freely without excessive administrative burden, and are able to transport products to maximise efficiency and to help reduce the cost of the supply chain.
106. It is possible that further Internal Market Act exclusions may be required, following passage of this Bill. Where required, we will follow due process under IMA Common Frameworks processes to agree a shared position across governments within respective framework areas, and we will continue to work closely with other administrations to seek alignment as far as possible.
107. The impact of provisions relating to reporting of waste and surplus and destruction of unsold goods will be considered in detail if and when secondary regulations are brought forward.

International Trade

108. This section of the assessment focuses on the potential impacts of the preferred option on international trade and investment.
109. While it unlikely that the provisions laid out in this Bill will have any direct

²³[Delivering Scotland's circular economy: Proposed Circular Economy Bill: Consultation analysis \(www.gov.scot\).](https://www.gov.scot/publications/consultations/2022/01/01/delivering-scotland-s-circular-economy-proposed-circular-economy-bill-consultation-analysis)

impact on international trade and investment, it should be recognised that a circular economy gives us an alternative economic model that can open up new market opportunities, improve productivity, increase self-sufficiency and resilience by reducing reliance on international supply chains and global shocks.

110. As part of the development of Scotland's circular economy, strategies and secondary legislation associated with the Bill policies will be developed in the future. Further in-depth assessment will be carried out when this secondary legislation is developed relating to this area.

EU Alignment

111. This section looks at whether this measure is likely to impact on the Scottish Government's policy to seek to align with the EU, where appropriate.
112. In 2021, the European Parliament called on the European Commission to consider EU targets for 2030 to significantly reduce the EU material and consumption footprints and urged the European Commission to introduce a suite of indicators to measure resource consumption.²⁴ Subsequent research by ZWS has highlighted that there is currently no consistent approach to measuring consumption in other countries and consumption-based targets are rare.²⁵
113. This Bill takes powers to set statutory circular economy targets through secondary regulations. The Scottish Government believes that there is merit in developing statutory targets to tackle consumption reduction as well as other aspects of the circular economy, including reuse, to create a focus for action and maintain alignment with the direction of EU policy.
114. Reducing and reusing waste are at the top of the waste hierarchy and central to changing our relationship with materials and products. Building an economic system that moves away from being based on items that are designed to be disposable will yield the biggest environmental impacts. At an EU level, The Sustainable Products Initiative aims to make products placed on the market more sustainable.²⁶ Ultimately, consumers, the environment and the climate will benefit from products that are more durable, reusable, repairable, recyclable, and energy-efficient. The European Commission has recently proposed a range of provisions including banning the destruction of unsold goods. The provisions in this Bill are in line with this aim. Moreover, the EU Single-Use Plastics Directive aims to reduce the volume and impact of specific plastic products on the environment. The charging for single-use items proposal will directly support the delivery of this directive.
115. As part of the development of Scotland's circular economy, strategies associated with the Bill and secondary legislation will be developed in the future. Further in-depth assessment will be carried out when this secondary legislation is developed.

²⁴[TA MEF \(europa.eu\)](#).

²⁵[Consumption Reduction Targets \(Legal Status Research\) | Zero Waste Scotland.](#)

²⁶[About sustainable products \(europa.eu\)](#).

Scottish Firms Impact Test

116. Stakeholders from all affected businesses will be consulted if and when associated strategies or secondary legislation are developed in the future.
117. Where appropriate, in line with Scottish Government guidance, at least 12 businesses of varying size will be consulted and the results published in the appropriate impact assessment. This process will help to establish:
 - Any anticipated impact on the competitiveness of Scottish companies within the UK, or elsewhere in Europe or the rest of the world.
 - The number of businesses and the sectors likely to be impacted by the change.
 - The likely cost or benefit to business.
118. The approach for engagement will consist of:
 - (1) Questionnaires for completion by key business stakeholders.
 - (2) Telephone interviews and email correspondence with selected representative organisations and associations.

Competition Assessment

119. This section assesses the potential impacts of the preferred option on competition among producers, wholesalers, retailers and importers in the Scottish market.
120. Assessments will be undertaken if and when associated strategies or secondary legislation for specific policy measures are being developed in the future. They will follow the Competition and Market Authority guidelines which outline how to determine any competition impact.²⁷ These guidelines recommend considering four key questions in order to assess whether a proposed policy would have an impact on competition.

Consumer Assessment

121. The Scottish Government definition of a consumer is "anyone who buys goods or digital content or uses goods or services either in the private or public sector, now or in the future".
122. Assessments will be undertaken if and when associated strategies or secondary legislation are being developed in the future
123. Scottish Government considers specific questions when determining the impact of proposed legislation on consumers, for example 'Does the policy affect the quality, availability or price of any goods or services in a market?', and 'Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?'

Test Run of Business Forms

124. Test runs will be undertaken if and when associated strategies or secondary legislation are being developed in the future.

Digital Impact Test

125. Changes to policy, regulation or legislation can often have unintended consequences, should government fail to consider advances in technology and the impact this may have on future delivery. This digital impact test is a consideration of whether the changes being made can still be applied effectively should business/government processes change – such as services moving online.
126. The assessment will be undertaken if and when associated strategies or secondary legislation are being developed in the future.

²⁷ [Competition: Markets - detailed information - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Legal Aid Impact Test

127. The Access to Justice Team at Scottish Government have liaised with the Scottish Legal Aid Board and indications show that the impact on the Legal Aid Fund would be minimal, and would depend on how many individuals issued with fixed penalty notices go on to contest them. If and when associated strategies or secondary legislation are developed in the future the Access to Justice Team at Scottish Government will be consulted further.

Enforcement, Sanctions and Monitoring

128. Enforcement, sanctions and monitoring systems will be put in place where appropriate.
129. The detail of this will be set out if and when associated strategies or secondary legislation are being developed in the future. These cover provisions relating to:

- A circular economy strategy;
- Circular economy targets;
- Restrictions on the disposal of unsold consumer goods;
- Charges for single use items;
- Householder's duty of care in relation to waste;
- Householder waste requirements;
- Code of Practice on household waste requirements;
- Littering from a vehicle;
- Powers to search and seize vehicles;
- Reporting on waste, surpluses etc

Implementation and Delivery Plan

130. The Scottish Government will set out a timetable for implementation and will work closely with key stakeholders to ensure that the strategic objectives are met.



© Crown copyright 2023

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80525-634-2 (web only)

Published by The Scottish Government, June 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1340202 (08/23)

w w w . g o v . s c o t