



Climate Change (Scotland) Act 2009

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PART 5

OTHER CLIMATE CHANGE PROVISIONS

CHAPTER 5

WASTE REDUCTION AND RECYCLING

Deposit and return

84 Deposit and return schemes

- (1) The Scottish Ministers may, by regulations, establish deposit and return schemes.
- (2) A “deposit and return scheme” is a scheme under which—
 - (a) the sale price of articles includes a returnable element (a “deposit”);
 - (b) persons who return—
 - (i) such articles;
 - (ii) the packaging associated with such articles (“returnable packaging”);or
 - (iii) both such articles and such packaging,are entitled to be paid a sum equal to that deposit.
- (3) Retailers may be required, under a deposit and return scheme, to—
 - (a) include a deposit in the price of articles placed on the market by them;
 - (b) accept the return to them of—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (c) pay a sum equal to the deposit to persons who return to them—
 - (i) such articles;
 - (ii) returnable packaging; or

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- (iii) both such articles and such packaging;
 - (d) return such articles to the producers of them;
 - (e) return returnable packaging to the producers of it or of the articles with which it is associated.
- (4) Producers may be required, under a deposit and return scheme, to—
 - (a) include a deposit in the price of articles placed on the market by them;
 - (b) accept the return to them of—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (c) pay a sum equal to the deposit to retailers who return to them—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (d) recycle, or have recycled—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging.
- (5) A deposit and return scheme may also provide for a person or body (a “scheme administrator”) to—
 - (a) ensure that deposits are included in the price of articles placed on the market;
 - (b) accept the return of—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (c) pay sums equal to deposits to persons who return—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging;
 - (d) return such articles to the producers of them;
 - (e) return returnable packaging to the producers of it or of the articles with which it is associated;
 - (f) recover sums equal to deposits from such producers;
 - (g) recycle, or have recycled—
 - (i) such articles;
 - (ii) returnable packaging; or
 - (iii) both such articles and such packaging.
- (6) The Scottish Ministers may make regulations under this section only where they consider it necessary or expedient to do so for the purpose of promoting or securing an increase in the recycling of materials.
- (7) The regulations may in particular include provision about—
 - (a) the persons who are retailers and producers for the purposes of deposit and return schemes;
 - (b) the articles to which such schemes apply;

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- (c) the deposits to be included in the price of such articles;
- (d) the inclusion, in the sale price of articles, of a non-returnable element to cover the reasonable costs incurred by retailers, producers or a scheme administrator in administering such schemes;
- (e) the articles the return of which entitles persons to payment of sums equal to deposits;
- (f) the methods by which such articles are to be identified;
- (g) the packaging which is returnable packaging for the purposes of such schemes;
- (h) the methods by which returnable packaging is to be identified;
- (i) information on the operation of schemes (including notices on premises where articles are offered for sale and the content of such notices);
- (j) the places to which articles can be returned;
- (k) the places to which returnable packaging can be returned;
- (l) the registration of retailers and producers to whom schemes apply (including the reasonable fees payable in relation to such registration);
- (m) the scheme administrator;
- (n) subject to section 89—
 - (i) the enforcement authority in relation to the regulations; and
 - (ii) the functions of that authority;
- (o) the keeping of records and other information and their production to the enforcement authority;
- (p) the enforcement of the duties imposed by the regulations;
- (q) offences in relation to failures to comply with requirements of the regulations.

85 Deposit and return schemes: designation of scheme administrator

- (1) The Scottish Ministers may, by order, designate—
 - (a) a body established under section 86(1); or
 - (b) such other person or body as they consider appropriate (an “existing body”), as a scheme administrator of a deposit and return scheme established by virtue of section 84.
- (2) An order under subsection (1)(b) may, in so far as the Scottish Ministers consider it necessary or expedient to do so, modify the functions of an existing body by—
 - (a) conferring functions on;
 - (b) removing functions from; or
 - (c) otherwise varying the functions of, the body.
- (3) That order may in particular include provision about—
 - (a) borrowing by the existing body (with the approval of the Scottish Ministers);
 - (b) the charging by the body, in respect of the exercise of its functions in relation to a deposit and return scheme, of such reasonable amounts as the Scottish Ministers consider appropriate.
- (4) In exercising functions in relation to a deposit and return scheme, a scheme administrator must comply with any written directions of a general or specific nature as the Scottish Ministers may from time to time give to it in relation to those functions.

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86 Power to establish scheme administrator

- (1) The Scottish Ministers may, by order, establish a body to be a scheme administrator of a deposit and return scheme established by virtue of section 84(1).
- (2) A body established under subsection (1) is to be a body corporate.
- (3) The body may do anything which appears to it—
 - (a) to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions in relation to a deposit and return scheme;
 - (b) to be conducive to the exercise of those functions.
- (4) In particular, the body may—
 - (a) enter into contracts;
 - (b) with the agreement of the Scottish Ministers, borrow money;
 - (c) charge, in respect of the exercise of its functions in relation to a deposit and return scheme, such reasonable amounts as the Scottish Ministers consider appropriate.
- (5) An order under subsection (1) may in particular include provision about—
 - (a) the status and constitution of the body;
 - (b) the status of the members and any employees of the body;
 - (c) the remuneration, allowances and pensions of such members and such employees;
 - (d) the conferral of functions on the body;
 - (e) the keeping by the body of accounts and accounting records.

87 Finance of scheme administrator

- (1) The Scottish Ministers may, for the purpose of or in connection with the exercise by a scheme administrator of functions in relation to a deposit and return scheme—
 - (a) pay grants;
 - (b) make loans,to the administrator of such amounts as Ministers may determine.
- (2) Any such grant or loan may be paid or, as the case may be, made, on such terms and subject to such conditions (including, in the case of a loan, conditions as to repayment) as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers may, from time to time after any grant or loan is paid or, as the case may be, made, vary the terms and conditions on which it was paid or made.
- (4) The Scottish Ministers may guarantee, in such manner and on such conditions as they consider appropriate, the discharge of any financial obligation in connection with any sums borrowed by a scheme administrator for the purpose of, or in connection with, the exercise of its functions in relation to a deposit and return scheme.