

---

DRAFT SCOTTISH STATUTORY INSTRUMENTS

---

**2020 No.**

**ENVIRONMENTAL PROTECTION**

**ENFORCEMENT**

**The Environmental Regulation (Enforcement Measures)  
(Scotland) Amendment Order 2020**

*Made* - - - - 2020

*Coming into force in accordance with article 1*

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 20 to 32, 53, and 58(1) of the Regulatory Reform (Scotland) Act 2014<sup>(a)</sup> and all other powers enabling them to do so.

In accordance with section 58(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

**1.** This Order may be cited as the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2020 and comes into force on the day after the day on which it is made.

**Amendment of the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015**

**2.—(1)** The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015<sup>(b)</sup> is amended in accordance with paragraph (2).

(2) At the end of the table in schedule 4 (relevant offences and fixed penalty amounts), after the final row insert (as a new row and in the appropriate columns)—

---

**“The Deposit and Return Scheme for Scotland Regulations 2020<sup>(c)</sup>**

---

Regulation 31(1)(a) (contravention of regulation 4(1) (requirement to fulfil certain conditions in order to market, offer for sale or sell a scheme article))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
---	------------	------------	------------	---------------

---

<sup>(a)</sup> 2014 asp 3.

<sup>(b)</sup> S.S.I. 2015/383, relevantly amended by S.S.I. 2016/161, S.I. 2017/1200 and S.S.I. 2018/219.

<sup>(c)</sup> S.S.I. 2020/XXX.

Regulation 31(1)(b) (contravention of regulation 4(2) (requirement to fulfil certain conditions in order to market, offer for sale or sell a scheme article))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(1)(c) (contravention of regulation 5(2)(a) (requirement to charge a deposit when marketing, offering for sale or selling a scheme article in Scotland))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(1)(d) (contravention of regulation 5(2)(b) (requirement to display certain information when marketing, offering for sale or selling a scheme article))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(1)(e) (contravention of regulation 5(3) (requirement to communicate certain information when marketing, offering for sale or selling a scheme article))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(2) (offences in relation to knowingly or recklessly supplying of false information)	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>HIGH</i>
Regulation 31(3)(a) (contravention of regulation 9(7)(a) (failure to comply with certain obligations of a producer whose registration has been cancelled))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(3)(b) (contravention of regulation 9(7)(b) (failure to comply with certain obligations of a producer whose registration has been cancelled))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(4) (contravention of regulation 10(1)(b) and (c) (failure to provide certain information to SEPA))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(5)(a) (failure to comply with certain obligations of a directly registered producer under regulation 11(1)(a) and (b))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(5)(b) (failure to comply with certain obligations of a directly registered producer under regulation 11(1)(c) to (h))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(6) (failure to comply with certain obligations of a producer registered through a scheme administrator)	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(7)(a) (failure by a scheme administrator to comply with the obligations in regulation 16(1)(a)(i))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(7)(b) (failure by a scheme administrator to comply with the obligation in regulation 16(1)(a)(ii))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>

Regulation 31(7)(c) (failure by a scheme administrator to comply with the obligations in regulation 16(1)(b))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(7)(d) (failure by a scheme administrator to comply with the obligation in regulation 16(1)(c))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(8)(a)(i) (failure by a retailer to comply with regulation 19(1)(b))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(8)(a)(ii) (failure by a retailer to comply with regulation 21(2))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(8)(a)(iii) (failure by a retailer to comply with regulation 22(4)(b))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(8)(b) (failure by a retailer to comply with regulation 19(1)(c))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(8)(c) (failure by a retailer to comply with regulation 21(4))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(8)(d) (failure by a retailer to comply with regulation 22(4)(a))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(9)(a) (failure by a return point operator to comply with regulation 20(2))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(9)(b) (failure by a return point operator to comply with regulation 20(3))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(10) (failure by a voluntary return point operator to comply with regulation 25(8)(b))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>MEDIUM</i>
Regulation 31(11) (obstruction of, or failure to assist an authorised person exercising enforcement powers under regulation 30(4))	<i>YES</i>	<i>NO</i>	<i>NO</i>	<i>LOW</i>
Regulation 31(12) (failure to comply with a notice under regulation 30(4)(l))	<i>YES</i>	<i>YES</i>	<i>YES</i>	<i>LOW</i>
Regulation 31(13) (purporting to act as a scheme administrator without approval under regulation 15)	<i>YES</i>	<i>NO</i>	<i>NO</i>	<i>LOW</i> "

*Name*  
A member of the Scottish Government

St Andrew's House,  
Edinburgh  
Date

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order confers additional powers on the Scottish Environment Protection Agency (“SEPA”) to enable it to enforce the requirements of the Deposit and Return Scheme for Scotland Regulations 2020 (“the Regulations”).

It amends the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the 2015 Order”) so that, where offences are committed under the Regulations, SEPA may also exercise its powers under the 2015 Order to impose a fixed or variable monetary penalty, or to accept an enforcement undertaking.

---

© Crown copyright 2020

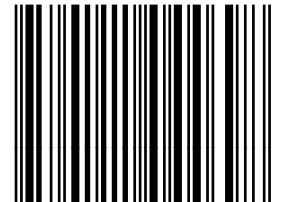
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen’s Printer for Scotland.

£4.90

S202003161008 03/2020 19585

<http://www.legislation.gov.uk/id/sdsi/2020/9780111044698>

ISBN 978-0-11-104469-8



9 780111 044698