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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2023 No.**

**ENVIRONMENTAL PROTECTION**

**ENFORCEMENT**

**The Environmental Regulation (Enforcement Measures)  
(Scotland) Amendment Order 2023**

*Made* - - - - 2023  
*Coming into force* - - 2023

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 20(1), 23(1), 27(1), 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 2023 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 paragraphs (2) and (3).

(2) In the table in schedule 4 (relevant offences and fixed penalty amounts), under the heading Deposit Return Scheme for Scotland Regulations 2020, after the fifth row (Regulation 31(1)(e) (contravention of regulations 5(3) (requirement to communicate certain information when marketing, offering for sale or selling a scheme article))), insert (as a new row and in the appropriate columns)—

Regulation 31(1)(f) (contravention of regulation 5(3A))	YES	YES	YES	MEDIUM
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(a) 2014 asp 3.

(b) S.S.I. 2015/383 as amended by S.S.I. 2016/161, S.I. 2017/1200, S.S.I. 2018/219, S.S.I. 2020/155 and S.S.I. 2021/412.

(requirement to communicate certain information when marketing, offering for sale, or selling a non-scheme article to a purchaser other than a consumer))

(3) At the end of the table in schedule 4, after the final row insert (as new rows and in the appropriate columns)—

**The Packaging Waste (Data Reporting) (Scotland) Regulations 2023(a)**

Regulation 28(1) (contravention of regulation 14(3) (incapacity reporting obligation))	YES	YES	YES	LOW
Regulation 28(2)(a) (contravention of regulation 16 (data collection obligations))	YES	YES	YES	MEDIUM
Regulation 28(2)(b) (contravention of regulation 17 (data reporting obligations))	YES	YES	YES	MEDIUM
Regulation 28(2)(c) (contravention of regulation 18 (notification of winding-up, receivership, administration etc.))	YES	YES	YES	LOW
Regulation 28(3)(a) (contravention of regulation 20(1) (data reporting obligations))	YES	YES	YES	MEDIUM
Regulation 28(3)(b) (contravention of regulation 20(2))	YES	YES	YES	MEDIUM

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(a) S.S.I. 2023/7.

(data collection obligation))				
Regulation 28(4)(a) (knowingly furnishing false or misleading information to SEPA)	YES	YES	YES	HIGH
Regulation 28(4)(b) (recklessly furnishing false or misleading information to SEPA)	YES	YES	YES	HIGH
Regulation 28(5) (failing to comply with any requirement imposed in a notice under regulation 23(3))	YES	YES	YES	MEDIUM
Regulation 28(6) (intentionally delaying or obstructing a person authorised by SEPA in the exercise of powers referred to in regulation 26)	YES	NO	NO	LOW

St Andrew's House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Ministers

## 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 DRS regulations”) by reflecting an additional offence added by the Deposit and Return Scheme for Scotland Amendment Regulations 2022, and to enforce the requirements of the Packaging Waste (Data Reporting) (Scotland) Regulations 2022 (“the Data Reporting Regulations”).

It amends the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the 2015 Order”) so that, where the additional offence is committed under the DRS Regulations or offences are committed under the Data Reporting 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.

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

£4.90

<http://www.legislation.gov.uk/id/sdsi/2023/9780111056257>

ISBN 978-0-11-105625-7



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