



Rialtas na hÉireann  
Government of Ireland

# Deposit Return Scheme

## Consultation Document on a Legislative Framework

**April 2021**

Prepared by the Department of  
the Environment, Climate & Communications  
[gov.ie](http://gov.ie)

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# 1 Introduction

The Programme for Government – Our Shared Future – set out the Government’s commitment to introduce a Deposit and Return Scheme (DRS) for plastic bottles of up to three litres in volume and aluminium cans. The Waste Action Plan for a Circular Economy sets out a road map for the delivery of the scheme by Q3 2022.

The first step in the process was launched in October 2020 when we asked the public for their view on the type of DRS that could work in an Irish context. This document forms the second stage of the process and we are seeking views on the preferred model and legislative framework for the delivery of the DRS. It is informed by the first round of public consultation and subsequent engagement with all stakeholders involved in delivering this scheme. In this document we outline the preferred model for the scheme, based on that engagement. We set out how the scheme could work and outline the legislative framework required to introduce a DRS in Ireland.

**All responses and submissions are welcome and will be considered in the development and implementation of the new Deposit Return Scheme.**

Submissions can be made to the following e mail address: [Wastecomments@decc.gov.ie](mailto:Wastecomments@decc.gov.ie)

**The closing date for submissions is 7 May 2021**

Responses to this consultation are subject to the provisions of the **Freedom of Information Act 2014 and Access to Information on the Environment Regulations 2007-2014.**

Confidential or commercially sensitive information should be clearly identified in your submission, however parties should also note that any or all responses to the consultation are subject in their entirety to the provisions of the FOI Acts and will be published on the website of the Department of the Environment, Climate and Communications.

By responding to the consultation, respondents consent to their name being published online with the submission. The Department will redact personal addresses and personal email addresses prior to publication. We would draw attention to the Department's privacy statement which states:

‘The Department of the Environment, Climate and Communication requires responders to provide certain personal data in order to provide services and carry out the functions of the Department. Your personal data may be exchanged with other Government Departments

and Agencies in certain circumstances, where lawful. Full details can be found in [our Data Privacy Notice](#).

## 2 How does a DRS operate?

A DRS for beverage containers involves the application of a refundable deposit to incentivise consumers to return their beverage containers for recycling or reuse. The primary function of a DRS is to increase recycling rates and support the circular economy (by keeping materials in productive use and securing the resource value of existing materials and reducing demand for new materials). These schemes have also shown that they can assist in the reduction of litter caused by beverage containers.

The system works as follows:

- Beverage producers initiate the deposit by paying it into a deposit account;
- Retailers pay the deposit to producers/ distributors at the wholesale stage;
- Consumers pay the deposit to retailers, along with the price of the beverage;
- Consumers claim a full refund when they return their used beverage container to a designated return location;
- The return location is reimbursed for the refunded deposit from the deposit account; and
- The returned, used beverage containers are transported to be processed and recycled. The material can be used to manufacture new containers.

## 3 The Preferred Model for a DRS in Ireland

In October last year we asked for opinions on what type of model of DRS would work in Ireland. The vast majority of responses encouraged the early introduction of a DRS and favoured a centralised scheme. Centralised schemes are producer owned and led. For now, in order to prioritise the delivery of our obligations under EU legislation, the scheme will collect Polyethylene Terephthalate (PET) bottles up to three litres in size and aluminium beverage cans. Options to incorporate other materials in the scheme may be exercised at a later date, after a period of successful operation of the core DRS focusing on plastic bottles and aluminium cans. The DRS in Ireland will be owned, led, funded and operated by beverage producers placing their products on the Irish market in beverage containers within the scope of the scheme. Producers are obliged to either establish a scheme operator or

seek to partner with an approved scheme under an existing Extended Producer Responsibility scheme.

Centralised schemes are generally underpinned by legislation which provides for a means of Government authorisation of a scheme that is then mandated to achieve specific performance targets in terms of separate collection and recycling of plastic bottles and aluminium cans.

The legislative framework attached to this document sets out how all this will be provided for in Regulations to be signed into law by the Minister for the Environment, Climate and Communications in Q3 2021.

## **4 Details of the scheme to be set out in Regulations**

### **Producer Responsibilities**

These Regulations, which will be made under the Waste Management Act 1996, will oblige beverage producers who place PET plastic bottles and aluminium drinks cans on the market to:

- Be a member of, and fund, through membership fees, a scheme approved by the Minister to operate a DRS in Ireland.
- Provide any information required by the scheme for the purposes of reporting on target attainment.

Additional obligations for the scheme (and therefore for producers) will be elaborated on in the eventual Ministerial approval awarded to the Scheme Operator. This will compliment the regulations and provide scope for, for example, regular performance review, the possibility to adjust targets, penalties for failure to meet obligations, market testing for other container types or measures that could enable the achievement of higher performance in terms of application of the waste hierarchy.

### **DRS System Operator**

The Regulations will enable a corporate entity, consisting of relevant producers, or a corporate body acting on their behalf, to apply to the Minister to operate the DRS in Ireland. Other such bodies exist under current extended producer responsibility schemes in Ireland, including, among others, Repak, WEEE Ireland, and ERP.

In applying for an approval to operate as the DRS system operator, the entity must set out a clear plan on a range of issues, including the following:

- How the scheme will operate on a financially sound, not-for-profit basis;
- How it will achieve EU collection and recycling targets;
- How it will work with retailers who will be to the forefront of collecting returned material;
- How they will work with waste collectors and processors to ensure the DRS material is kept separate during collection/sorting to achieve high quality of recycling;
- How they will promote the scheme and fund education and awareness campaigns;
- An undertaking to examine the ability of the scheme to be expanded to incorporate further materials;
- Making proposals on collection locations, other than retailer outlets.

### **Retailer Obligations**

Retailers are a critical stakeholder in the scheme given their role in accommodating the return of waste material and refunding the deposit to the consumer. All retailers selling beverages in plastic bottles and aluminium cans will be obliged to, amongst other things:

- Accept all materials covered by the scheme, irrespective of whether they were purchased on their premises or not;
- Refund the deposit to the consumer on the return of waste materials;
- Report in a prescribed manner to the scheme.

Retailers will have a representative on the Board of the DRS operator, as is the position in schemes in other jurisdictions.

### **The Deposit**

The deposit will be set by the Minister, having taken advice from the DRS operator. Producers will be responsible for ensuring the relevant branding/barcoding is applied to their packaging. It will be refundable at all participating locations and all unredeemed receipts will fund the operation of the scheme.

The first public consultation asked whether the deposit should be a flat rate or varied on the basis of the size of the packaging. Opinions on this issue were divided. However, on balance, the preferred option is to have variable deposits based on volume of the product

and this will be provided for in the Regulations. This is for a number of reasons, including the need to ensure that a flat rate deposit does not incentivise overconsumption or the purchase of greater quantities resulting in less recyclable materials.

Waste collectors or operators of municipal recycling facility operators will also be eligible to claim the deposit in respect of containers that are not returned to retailers but which are placed in recycling bins and thereafter directed to MRFs for sorting.

### **Citizen / consumer**

As set out above, consumers will pay a deposit on all beverage containers that come within the scope of the scheme at the point of purchase. Subject to a small number of exceptions, they will be able to return their used containers to any retailer. Retailers will have in-store, automated reverse vending machines or, where necessary, will operate alternative collection methods. Consumers will be able to claim their refund from all retailers.

**Respondents are asked to consider the issues highlighted briefly above and the draft legal framework for the Scheme as set out in the Appendix.**

# Appendix

## Deposit and Return Scheme Draft Regulatory Framework

### PART I - PRELIMINARY AND GENERAL

This part will contain the following:

- Citation and commencement- this is a standard provision in Irish legislation which states the basis of powers of the Minister to make these regulations;
- Interpretation- will define the main terms within the regulations;
- Scope- this will define the products to be covered by the scheme as PET plastic beverage bottles up to 3 litres in size and beverage aluminium cans.

### PART II - PRODUCERS RESPONSIBILITY

This part will set out obligations of producers to establish a deposit and return scheme to meet Irelands obligations to achieve a 90% separate collection rate for plastic PET bottles and to reach EU targets for aluminium can recycling. It will include the following:

- Definition of Producer for these Regulations;
- All Producers will have to register with the approved body;
- Producers will be obliged to provide information in a prescribed format to the approved body relating to the amount of product they place on the market.

### PART III - APPROVED BODY

This will set out the process of how a corporate entity applies to the Minister for approval as the DRS Operator (System Operator) on behalf of obligated producers, the grounds on which the Minister may accept, refuse or revoke such an application. It will contain the following:

1. An application to the Minister for approval will include:
  - Corporate credentials (Article of Association, CRO registrations etc),
  - List of proposed directors and officers of the body,

- Proposals relating to corporate governance,
- Proposals for representation of small and medium sized enterprises on the board of the approved body,
- A business plan in relation to the proposed scheme,
- A financial plan in relation to the proposed scheme,
- Proposals for a contingency reserve,
- Proposals relating to co-operation with other approved bodies,
- Proposals relating to retailer engagement and compensation,
- Proposals for exempting certain entities from the scheme and the grounds for such exemptions,
- A description of how the collection mechanism from consumers will be tailored to suit both large and small retail units,
- Criteria for selection of collection locations- other than larger retailer outlets,
- Proposals on how the deposit and refund is to be applied to products,
- Proposals in relation to the collection of materials for processing, ensuring the collection and recovery of the materials is recycled to a high standard,
- Proposals for the achievement of targets for the separate collection of PET plastic bottles (including a food grade recyclate),
- Proposal for achieving EU recycling targets for aluminium cans,
- Proposals for submitting information, in such form and at such frequency as may be specified by the Agency or any other body who requires it for data reporting purposes,
- Proposals in relation to public awareness campaigns,
- Proposals detailing the nature and frequency of information (including financial accounts) to be submitted by the body concerned to the Minister or to such other person as may be specified by the Minister or, as appropriate,
- An undertaking to explore the future potential of the scheme to incorporate other materials, and

- Such other information as may be specified in writing by the Minister for the purposes of the Regulations.
- 2. The grounds on which the Minister may grant or refuse of approval;
- 3. The frequency of a review of the scheme (currently 5 years for other EPR schemes);
- 4. The grounds on which the Minister may revoke an approval.

## **Part IV - FUNCTIONS AND POWERS OF THE APPROVED BODY (SYSTEM OPERATOR)**

The functions and powers of the System Operator will include the following:

- Operate the DRS nationwide on behalf of its members on a not-for-profit basis;
- Responsibility for the effective carrying out of its functions;
- To receive any subscriptions or make charges to its members to provide for the effective carrying out of its function;
- Setting the level of any such subscription or charges which it may review from time to time;
- Issuing of a certificate of membership to all producers and retailers who fulfil their obligations under these Regulations;
- Ensure material collected from deposit locations is maintained separately from all other materials;
- Ensure PET bottles are recycled to a standard that achieves food grade quality;
- Support retailers in the management of collection infrastructure;
- Make recommendations to the Minister on the appropriate level of deposit;
- Provide such information regarding the operation of the approved body as the Minister may from time to time require;
- Provide information to the relevant local authority, nominated authority or, as appropriate, the Agency in such format and at such frequency as may be determined by the local authority, nominated authority or the Agency.

## **PART V - RETAILER OBLIGATIONS**

Retailers will be obliged to:

- Apply for membership of the scheme in a prescribed format;
- Display in a manner that is visible to all customers the certificate of participation in the DRS;
- Engage with the System Operator on the appropriate collection infrastructure for their outlet;
- Accept all materials covered by the scheme, irrespective of whether they were purchased on their premises or not;
- Collect the deposit in a manner to be agreed by the System Operator;
- Refund the deposit to consumers -in a manner to be agreed with the System Operator;
- Ensure the mechanism for recouping the refund from their premises is well advertised;
- Submit data in a prescribed format and frequency as required;
- Ensure the collection of scheme materials i.e. PET and aluminium cans from their premises.

## **PART VI - DEPOSIT**

The provisions in relation to the deposit will include:

- The Minister will fix the deposit by regulation having considered recommendations from the approved body;
- The deposit may be varied by container volume and/or other factors as may be recommended to the Minister by the Scheme Operator;
- The Minister may amend the amount of the deposit on any item where it appears that the cost is insufficient to incentivise consumers to return items to the Scheme;
- The Minister may also amend the deposit if it appears that the revenues returned to the Scheme are exceeding or are insufficient to cover operational costs;
- Producers will ensure that the required marking as agreed with the Scheme are placed on their packaging;

- Participating retailers will be obliged to refund the deposit on all materials placed into their collection system regardless of whether they were purchased at their premises.

## **PART VII - ENFORCEMENT**

- Functions of Local Authorities
- Functions of EPA

## **PART VIII - MISCELLANEOUS**

- Offences
- Penalties and Prosecutions

## **EXPLANATORY NOTE**

These Regulations will give effect to the commitment in the Programme for Government and the Waste Action Plan for a Circular Economy for the introduction of a Deposit Return Scheme. The scheme will apply to PET bottles and aluminium cans and the Regulations will provide for the potential extension of the scheme to other materials.

The Regulations detail the responsibilities and obligations of the Producers and Retailers of the materials and also of the Approved Body who will operate the scheme on behalf of the Producers. The process by which a corporate entity can apply to the Minister to become the Approved Body, and the criteria required are also set out.

The deposit which will be applied to the materials will be fixed by the Minister and the Regulations set out a number of provisions relating to this. Finally, the enforcement provisions that will apply to the Regulations issues are outlined.