

## **NILGA response to the UK Government (Defra via DAERA) consultation on introducing a Deposit Return Scheme (DRS) in England, Wales and Northern Ireland**

**10<sup>th</sup> May 2020**

The following response has been prepared in liaison with council technical advisors, and further to policy discussions with relevant industry representatives, government officials and council officers in England, Northern Ireland and Wales. NILGA would particularly like to thank NAWDO, LARAC, TAG(NI) and arc21 for their invaluable assistance.

This consultation requires response by 4<sup>th</sup> June 2020, and further to consideration by the NILGA Executive Committee, will be forwarded to councils to assist in their individual deliberations. Councils will be requested to revert to NILGA with any suggested additions or amendments.

This is one of two consultations, which collectively present a massive change for current waste management practices and council waste activities, particularly the financial aspects of that activity. It presents opportunities as well as challenges, and it will be vital for councils in Northern Ireland to work together to ensure local government here has a strong voice at the table as these policies, and the details of these policies are developed.

It will be imperative to ensure that local government in Northern Ireland is prepared to push for its fair share of resources coming out of these changes, and that we don't fall foul of a shift in practice which will extract high value recyclates from the system, before they ever reach councils. Councils will need to be adequately protected against a system which could leave us with the low value, expensive/ impossible to recycle materials at the end of the line.

Councils in Northern Ireland are in a particularly precarious position, with limited and lessening landfill availability, no local recourse to incineration at present, and continuing systemic turbulence due to COVID 19 and Brexit. There is potential for the policy within these consultations to increase risk and expense for councils, but also to present economic opportunities. It will be necessary to lobby strongly for local application of policy and to reserve the right to seek 'tweaking' appropriate to Northern Ireland, bearing in mind demographics and expectation of performance. What councils collect and how they collect will change as a result of these proposals, and they will have less say in how that happens. Northern Ireland local government needs to make a concerted effort to guard against unintended consequences as a result of these proposals and it is vital that we inform the development of the proposed new governance models for the new producer responsibility and deposit return schemes.

**Derek McCallan**  
**Chief Executive**

**30<sup>th</sup> April 2020**

## **1.0 INTRODUCTION**

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland. NILGA represents and promotes the interests of the 11 Northern Ireland district councils and is supported by all the main political parties. Waste management (including collection, disposal, recycling and treatment) is a key issue for local government due to the huge impact it has on our resources, economy and environment.

Resource and waste management have potential for job creation, combined with a positive environmental impact through modernising processes and infrastructure. NILGA is pleased to be able to have an opportunity to comment on the proposals for introducing a Deposit Return Scheme (DRS) in England, Wales and Northern Ireland; we trust that our comments will be taken into account when developing the final proposals.

**For further details on this response, please contact NILGA [office@nilga.org](mailto:office@nilga.org).**

## **2.0 GENERAL COMMENTS**

NILGA welcomes this consultation on introducing a Deposit Return Scheme (DRS) in England, Wales and Northern Ireland, given our member councils' commitment to recycling, their role as the principal domestic waste and recycling provider in Northern Ireland, and the sizable impact that a Deposit Return Scheme and an Extended Packaging Producer Responsibility Scheme (EPRS) will have on councils and their waste management services.

Further to response to the 2019 DRS consultation, which ran during a period of heightened political sensitivity in Northern Ireland, our members and officers have now had opportunity to consider the direction of travel on recycling and waste management. It should be noted however, that several pieces of policy are pertinent to this consultation document that have not been finalised and are not available. These include:

- Northern Ireland Environment Strategy – initial consultation closed February 2020
- Future of Recycling and Separate Collection of Waste – consultation closed October 2020
- DAERA policy confirmation on TEEP “technically, environmentally and economically practical”
- Climate Strategy/Legislation/Policy
- Circular Economy Strategy /policy
- Materials Recycling Facility code of practice

Although we acknowledge that COVID -19 has required a government focus and has caused delays in policy delivery locally and nationally, the lack of clarity arising locally from this policy vacuum presents difficulty in fully replying to the current consultation.

It will also be necessary, the contemporisation of policy and delivery on packaging notwithstanding, to explore how to better manage other materials, such as textiles and hazardous waste. We look forward to an ongoing policy conversation with DAERA and DEFRA as policy develops.

### **3.0 NILGA POSITION ON THE INTRODUCTION OF A DRS IN NORTHERN IRELAND**

The choice and design of a DRS must make a significant improvement towards national recycling targets, a zero waste culture and circular economy ambitions.

Northern Ireland local government needs to have a seat at the table when the responses to this consultation are being assessed and decisions on a system designed to include Northern Ireland are being taken. Local government in Northern Ireland is open to adjusting and restructuring its waste services in light of change, but this needs to be a two-way conversation, shaping existing waste services, an EPRS and DRS in light of what is feasible, effective and desirable. NILGA is of the view that it is unfortunate that the EPRS and DRS consultations and work are being carried forward in tandem as this increases uncertainty and complexity in the system.

The wider regional context will need to be considered in shaping this policy including the limitations of the NI planning system (currently under review) and the mandatory coalition required for regional decision-making.

It is imperative that councils in Northern Ireland are afforded their fair share of resources coming out of these changes, and that they don't fall foul of a shift in practice which will extract high value recyclates from the system, before they ever reach councils. Councils will need to be adequately protected against a system which could leave them with the low value, expensive/ impossible to recycle materials at the end of the line. Direct lines of communication and financial mechanisms must be set up between the scheme administrator (DMO )and councils in Northern Ireland in the event of these proposals being taken forward.

Given the past experience of how landfill tax formed part of the NI 'block' funding and has never been appropriately returned to councils here, NILGA would urge Defra to ensure that the financial relationship between the scheme administrator and councils in Northern Ireland is direct and robust, without diversion to the devolved administration.

The scheme needs to allow for the geography of Northern Ireland and its social set-up. It needs to address the challenges presented by the border, and by the physical separation from the other nations participating in the scheme. This presents significant issues particularly with regard to transfers, transport and possible illegal activity; there is growing concern in relation to the potential for fraud which could develop around the Deposit Return Scheme (DRS).

The scheme must also not disadvantage vulnerable social groups. The outworking of this consultation will shape the relationship with citizens, and necessary communications messages, including labelling decisions.

## 4.0 RESPONSES TO CONSULTATION QUESTIONS

Questions 1-5 are administrative, seeking detail on NILGA.

### *A Deposit Return Scheme in a post-COVID context*

**Q6. Given the context of the COVID-19 pandemic we are currently experiencing, do you support or oppose our proposals to implement a deposit return scheme for drinks containers in 2024?**

**a) Support**

**Q7. Do you believe the introduction of a deposit return scheme will have an impact on your everyday life?**

- a) Yes, a detrimental impact
- b) No, there will be no impact

NILGA is of the view that overall, the introduction of a DRS will have a positive social and environmental impact on everyday life, as a result of the likely reduction in littering. However, the potential negative impact on older people, those in lower socio-economic groups and those without access to a car - arising from their lessened ability to engage with a DRS – cannot be ignored, and solutions must be developed to assist engagement in these circumstances.

**Q8. Have your views towards implementation of a deposit return scheme been affected following the economic and social impacts of the COVID-19 pandemic?**

- a) Yes - because of economic impacts
- b) Yes – because of social impacts
- c) Yes – because of both economic and social impacts**
- d) No
- e) Not sure

***Please elaborate on your answer if you wish.***

NILGA agrees with the elongation of the implementation timeframe as proposed by government within this consultation. The shock to the economy and social impact experienced by the waste and resource efficiency sector cannot be discounted and adequate recovery time will need to be built into the implementation planning for a DRS.

## ***1. Scope of the Deposit Return Scheme***

### ***In-scope containers***

**Q9. Do you agree that the cap should be included as part of the deposit item in a deposit return scheme for**

- a) Plastic bottle caps on plastic bottles – Yes**
- b) Aluminium bottle caps on glass bottles - Yes**

c) Corks in glass bottles – Yes

d) Foil on the top of a can/bottle or used to preserve some drinks – Yes

### *Size of Container*

***For questions 10, 11, 12, 13, 14, 15 respondents should note that these questions are only applicable to the outstanding decision on the final scope of a deposit return scheme to be made in England and Northern Ireland, since the Welsh Government have already presented a preference for an all-in deposit return scheme.***

**Q10. Do you believe we have identified the correct pros and cons for the all-in and on-the-go schemes described above?**

**a) Yes**

NILGA particularly welcomes the acknowledgement on P23 of the consultation document, that consideration will need to be given of the impact of a new scheme on local authorities. This will be the case regardless of whether the all-in or on-the-go system is the eventual decision.

**Q11. Do you foresee any issues if the final scope of a deposit return scheme in England and Northern Ireland does not match the all-in decision taken in Wales? E.g. an on-the-go scheme in England and an all-in scheme in Wales.**

**a) Yes**

With both Scotland and Wales opting for an all-in scheme, the potential for consumer confusion and other disbenefits would be greater than desired, particularly if England should opt for an on-the-go scheme. Although geographically removed from the other UK jurisdictions, NILGA sees advantages to producers and retailers if a common approach is taken.

NILGA is keenly aware of the high levels of cross border activity that occur within the agri-food industry on the island of Ireland and that a number of our larger producers (e.g. Coca-Cola) operate on an all-island basis. This poses some practical challenges, and a NI-only DRS on the island of Ireland could create some unmanageable complexities for producers, limit packaging innovation and choice for NI consumers and potentially encourage cross-border fraud. It could also fail to incentivise packaging weight reduction and further place NI at competitive disadvantage in relation to the Republic of Ireland (which is particularly problematic when NI is endeavouring to maintain industry confidence during a time of great societal and economic uncertainty).

NILGA is already aware of growing concerns regarding the potential for cross-border fraud arising from the difference between the scheme proposed for Republic of Ireland (no glass) and that for Northern Ireland (including glass). It may be the case that areas close to boundaries between GB jurisdictions, similar issues could be experienced; a lot will depend on effective labelling throughout these islands.

**Q12. Having read the rationale for either an all-in or on-the-go scheme, which do you consider to be the best option for our deposit return scheme?**

- a) All-in
- b) On-the-go

In our 2019 consultation response to Defra, NILGA had suggested that a useful approach would be incremental, starting with an on-the-go scheme and working towards an all-in scheme, to allow the new EPR and DRS systems and administrators to ‘bed-in’ before expanding the scheme. However, given the approach being taken in both Scotland and Wales, we would acknowledge that it may now be more consistent to develop an all-in scheme from the start. The cost implications of an incremental approach would also counter the benefits.

However, the implementation of an all-in scheme would be a displacement activity, potentially having a heavy impact on council revenue schemes. This displacement effect is likely to be less with recycling “on the go”. Such a system, while limited in scope, would predominantly capture large amounts of materials that typically do not end up in the recycling stream, and that produce significant littering with significant associated costs and environmental damage.

**Q13. Given the impact Covid-19 has had on the economy, on businesses and consumers, and on everyday life, do you believe an on-the-go scheme would be less disruptive to consumers?**

- a) Yes
- b) No**

Introduction of any new scheme will be disruptive to consumers, but if a new scheme is to be implemented then it would be preferable that it is easily understood, easy to participate in and resulting in the greatest benefit to society.

Any disruption to consumers is likely to be felt in the interface with their local council and the changes required to service delivery. Discussions with local government waste managers in 2019 indicated that a Northern Irish deposit return system should preferably focus on a small part of the recycling market (“recycling on the go”), to assist in addressing the potential risk of deposit return offering little additional benefit (capture rates, littering etc) for the size of financial investment required.

**Q14. Do you agree with our proposed definition of an on-the-go scheme (restricting the drinks containers in-scope to less than 750 ml in size and excluding multi-pack containers)?**

- a) Yes
- b) No**

Containers from multi-packs are often used by families etc. for packed lunches, and as such should be included in all types of DRS and at the same deposit level, if reduction in litter is one of the aims

of the scheme. It is also noted that on-the-go plastic drinks bottles (e.g. 1 litre sports type bottles of water) can often be larger than 750ml.

**Q15. Do you agree that the size of containers suggested to be included under an on-the-go scheme are more commonly consumed out of the home than in it?**

- a) Yes
- b) No
- c) Difficult to say

The consultation document notes on P25 that it can't be predicted where drinks will be consumed, but that research indicated consumption outside the home was more likely to be using smaller plastic bottles.

**Q16. Please provide any information on the capability of reverse vending machines to compact glass?**

NILGA has no relevant information in relation to this issue.

**Q17. Do you agree that the scope of a deposit return scheme should be based on container material rather than product?**

Yes, although clear labelling will be required to ensure that good communication of what is included is easily understood by the consumer.

**Q18. Do you agree with the proposed list of materials to be included in scope?**

Yes, although it is highlighted that there may be confusion and in all likelihood fraudulent activity, arising from the fact that Northern Ireland shares a land border with the Republic of Ireland. The Republic is developing a DRS excluding glass, and it is likely that cross-border consumers will attempt to dispose of glass containers (many of which are currently identical north and south, distributed on an island-wide basis) in return facilities in Northern Ireland. This would be a greater challenge for an all-in scheme than on-the-go.

**Q19. Do you consider there will be any material switching as a result of the proposed scope?**

This is certainly possible, and it would be useful to examine the operation of schemes in other places, to assess the likelihood of this being an issue in the UK.

## **2. Targets**

**Q20. Which of the following approaches do you consider should be taken to phase in a 90% collection target?**

- a) 70% in year 1, 80% in year 2, 90% in year three and thereafter

**b) 75% in year 1, 80% in year 2, 90% in year three and thereafter**

c) 75% in year 1, 85% in year 2, 90% in year three and thereafter

d) 80% in year 1, 85% in year 2, 90% in year three and thereafter

NILGA would prefer option b) to concur with the findings of the Defra Impact Assessment, to guard against optimism bias during and immediately following pandemic recovery, to give time for the economy to stabilise and to assist councils in reconfiguration of services.

Sufficient feedback loops (targets or financial instruments/measures) will be required to ensure individual producers have every incentive to improve their own environmental performance.

Also, the ongoing statutory role for councils (both collection & disposal functions) needs to be taken into account to prevent unintended consequences of different bodies “chasing target materials” such that the costs to society are not minimised.

**Q21. What collection rate do you consider should be achieved as a minimum for all materials after 3 years?**

a) 80%

b) 85%

**c) 90% collection rate should be achieved for all materials**

In line with the aspirations for a successful, high-performing scheme, the target from 3 years and onwards should be suitably ambitious.

**Q22. Is it reasonable to assume that the same collection targets could be met with an on-the-go scheme as those proposed for an all-in scheme for in-scope materials?**

**Yes**, provided the scheme is well-communicated to consumers, and support to participate provided where necessary.

### *Targets by England, Wales and Northern Ireland*

**Q23. Who should report on the volumes of deposit return scheme material placed on the market in each part of the United Kingdom (England, Wales and Northern Ireland) for the proposed deposit return scheme, and what would be the implications of these obligations?**

a) The producer/importer

b) The retailer

c) Both the producer/importer and retailer

NILGA does not have sufficient information to enable a meaningful response.

**Q24. What evidence will be required to ensure that all material collected is passed to a reprocessor for the purpose of calculating the rate of recycling of deposit return scheme material?**



NILGA would be keen to see realised, the increase in UK reprocessing capacity discussed in the consultation document, and would highlight the growing concentration of reprocessing and remanufacture businesses that have developed in Northern Ireland in recent years.

Local government is aware of the monitoring difficulties that can be associated with multiple changes of ownership of recyclate – particularly when export is involved. We also note that this issue forms part of a wider policy conversation, included in the ‘sister’ EPR consultation. It will be for government, the Deposit Management Organisation, producers and reproducers, to develop and agree an appropriate system for calculating the rate of recycling from DRS material.

### **3. Scheme Governance**

**Q25. What length of contract do you think would be most appropriate for the successful bidder to operate as the Deposit Management Organisation?**

NILGA has no strong view on this issue.

#### ***Tender process***

As part of the tender process, bidders will be asked to answer questions regarding how they plan to run the deposit return scheme. These questions could include topics such as:

- Outlining a plan to demonstrate how the organisation will meet the stated objectives of the scheme.
- Ensuring representation and feedback from a wide variety of affected stakeholders throughout the decision-making process.
- Ensuring clear dispute resolution pathways are set out and accessible to all affected parties.
- Outlining a clear communications strategy and how its performance would be evaluated, including wider messaging such as anti-littering and behaviour change campaigns.
- Outlining a methodology for how handling fees and producer fees would be determined.
- Outlining the environmental ambitions of the operation of the scheme itself
- Overall cost plan for the scheme and how you will maximise value for money, including proposals for using unredeemed deposits effectively – how to achieve the outcomes at the best cost.
- How the consumer experience will be managed and enhanced ensuring deposits are as easy to redeem as it is to purchase the drink in the first place.
- How innovation could be deployed to maximise the effectiveness of the scheme.
- How existing collection and recycling infrastructure could be utilised to provide greater value for money.
- What fraud prevention measures will be included and how fraud will be managed and minimised.
- Demonstrating the social value that the scheme will deliver, and specific initiatives bidders would employ to maximise this value.

**Q26. Do you agree that the above issues should be covered by the tender process?**

**Yes**

**Please list any other issues you believe should be covered as part of the tender process.**

Outlining how the DMO will work with local councils, and their planning offices, in relation to provision and siting of infrastructure,

## **Contract Management**

**Q27. Do you agree that the above issues should be monitored as Key Performance Indicators?**

**Yes.**

**Please list any further issues you believe should be covered by Key Performance Indicators.**

NILGA has nothing further to add.

## **Digital Infrastructure for the Deposit Return Scheme**

**Q28. Do you agree that Government should design, develop and own the digital infrastructure required to register, and receive evidence on containers placed on the market on behalf of the Deposit Management Organisation and regulators?**

**Yes**

***Please elaborate on your answer***

If the arrangements for the DMO are to be timebound, i.e. with a tender for a specified period, there is potential for the successful bidder to change over time. It is vital that the intellectual property and digital operating systems developed can be maintained, irrespective of who wins the tender at any given time. This would indicate that government should be the owner of the digital infrastructure required. The designer and developer are also likely to be appointed from the private sector, through a separate tender process, at the behest of government.

**Q29. Government will need to understand the needs of users to build digital services for deposit return scheme. Would you like your contact details to be added to a user panel for deposit return scheme so that we can invite you to participate in user research (e.g. surveys, workshops interviews) or to test digital services as they are designed and built?**

**No**

## **4. Financial Flows**

### **Producer Registration Fees**

**Q30. What is an appropriate measure of small producers for the purposes of determining the payment of registration fees?**

#### **• Taxable Turnover**

- Drinks containers placed on the market
- Any other

### **Unredeemed Deposits**

**Q31. Is a high level of unredeemed deposits funding the scheme problematic?**

**Yes**

***Please explain your answer.***

It is vitally important that the deposit return scheme is viewed in the context of the size of the investment required (by the public and private sector, and individual citizens), compared to the contribution it is likely to make towards national targets. If there is a high level of unredeemed deposits, producers could argue that their fees are unfair and unnecessary. The biggest financial contributors to the scheme would be citizens, 'paying' for the scheme through unrecovered deposits. We cannot assume that it is only wealthier people who are prepared to lose their deposit. The elderly, disabled or disadvantaged people and those with little access to relevant transport might have to forego redeeming their deposits. This must be avoided, as noted in the consultation document

NILGA again notes that councils in Northern Ireland currently spend more than £31m p.a. on clear up of litter and illegal dumping activity, but have 'built-in' reliance on the revenue streams associated with recyclates that may negate any savings associated with litter reduction as a result of a DRS. A detailed Northern Ireland specific cost-benefit analysis would be vitally important prior to unpicking the current system – particularly in relation to the proposed 'all in' system.

**Q32. Which option to treatment of unredeemed deposits do you support?**

**Option 2** – *unredeemed deposits part fund the system but there is a minimum producer fee per annum and excess funds are asked about during tender*

**Q33. With option 2, do you foresee any unintended consequences of setting a minimum percentage of the net costs of the deposit return scheme that must be met through the producer fee?**

If, e.g. due to a rapidly changing business environment, producers fall in number, there is potential for a greater burden to fall on a smaller number of producers.

**Q34. If a floor is set do you consider that this should be set at:**

- a) 25% of net costs
- b) 33% of net costs
- c) 50% of net costs**
- d) Other

**Please provide any evidence to support your response.**

**Q35. Do you agree that any excess funds should be reinvested in the scheme or spent on other environmental causes?**

Both. Given the quantum of finance that should be available, it is likely that both will be possible.

NILGA notes that investment may be necessary to ensure read-across between the forthcoming DRS in Northern Ireland and that planned for the Republic of Ireland. It would be helpful if the UK and Irish governments could work together to develop some consistency on DRS policy and delivery.

### ***Start-up Costs and Operational Costs***

**Q36. What should be the minimum deposit level set in legislation?**

- a.) 10p
- b.) 15p**
- c.) 20p
- d.) Other

The level of the deposit should be set by the DMO, so that it can be varied in the light of experience. The findings of the Kantar research are noted as indicating a 15p minimum would be acceptable, with the 20p 'round' figure preferred.

**Q37. Do you agree that there should be a maximum deposit level set in legislation?**

**Yes.**

***If yes, what should be the maximum deposit level set in legislation?***

- a.) 30p
- b.) 40p
- c.) 50p**
- d.) Other

NILGA welcomes that these levels will be articulated in secondary legislation, as they will undoubtedly require review in line with inflation.

**Q38. Recognising the potentially significant deposit costs consumers could pay on a multipack purchase, how best can we minimise the impact of the scheme on consumers buying multipacks?**

NILGA would encourage Government to research the solutions to this issue employed in other countries with a DRS, which could be put in place in the UK.

**39. Do you agree with our approach to letting the Deposit Management Organisation decide on whether to adopt a fixed or variable deposit level, particularly with regards to multipacks?**

**Yes.**

## 5. Return Points

**Q40. Do you agree that all retailers selling in-scope drinks containers should be obligated to host a return point, whether it is an all-in or on-the-go deposit return scheme? Please provide any evidence to further explain your answer.**

**Yes**

NILGA is of the view that it is essential to ensure that return of in-scope containers is as easy as possible for the consumer. All retailers selling in-scope drinks containers should be obligated to participate in provision of a return point, with a de minimis in place to exempt smaller retailers, however 'hosting' implies provision on the retail premises, which may not always be possible, for example in small-scale stores of large chain retailers/cafes. Discussions will be required with local planning authorities, and with disability organisations in relation to the potential addition of more 'street furniture' to an already crowded landscape. We welcome the recognition that technological innovations may come into play, providing additional return points for consumers to use, and recognise that the DMO may enable collaborative approaches to provision of return points e.g. between neighbouring businesses in local high streets. Local Business Improvement Districts may be helpful stakeholders in this regard.

**Q41. Given the proposed extensive distribution and availability of return points for consumers to return bottles to, do you think customers would be likely to experience delays / inconveniences in returning drinks containers? If so, how long or how frequently would such delays be likely to arise for?**

Provided consumers are not required to return containers to the place of purchase, inconvenience should be kept to a minimum.

### *Online purchases of in-scope drinks containers*

*Option 1: Obligate all retailers selling in-scope containers online to offer a takeback service*

*Option 2: Use a 'de minimis' based approach to obligate qualifying retailers selling in-scope containers to offer a takeback service*

*Option 3: No obligation placed on retailers selling in-scope containers to offer a takeback service*

**Q42. Do you have a preference, based on the 3 options described above, on what the schemes approach to online takeback obligations should be? We welcome views from stakeholders on who this obligation should apply to, including if there should be an exception for smaller retailers or low volume sales. Please explain your answer**

**Option 2**

NILGA views option 2 as being the most practical, with the additional provision of a centralised takeback service to facilitate the collection of containers purchased online.

Another exemption from the takeback obligations should be considered, in relation to those retailers selling bulk quantities directly to consumers e.g. wine merchants or breweries, which are operating nationally via direct online sales. The practical and environmental costs of these companies attempting a takeback scheme would be considerable, in contrast to national supermarkets who are operating local delivery systems.

Thought will need to be given in relation to how a takeback scheme would operate for local supermarket delivery services as it may be extremely difficult from a hygiene point of view to take back used drinks containers in the same vehicle in which fresh food is being delivered to multiple households.

Regular compositional analysis will be required to ensure appropriate knowledge is developed of how much of this packaging is disposed of via household collections. This analysis should be funded via the DMO.

### *Handling Fee*

**Q43. Do you agree with the proposed criteria for the calculation of the handling fee?**

**Yes**

**Would you propose any additional criteria are included for the calculation of the handling fee?**

Other costs should be covered, for example building control, planning permission fees.

### *Exemptions to hosting a Return Point*

**Q44. Please tick which exemptions you agree should be included under the scheme:**

- Close proximity ☒
- Breach of safety ☒

### **Any further comments you wish to make**

It is noted that the UK is 'a nation of shopkeepers', many of which are small and micro-sized. Assessing exemptions will be a mammoth task and difficult to achieve without sufficient local knowledge. NILGA is therefore concerned that the DMO (or indeed retailers) may turn to councils for assistance in relation to this exercise, and we are keen to ensure that suitable arrangements are put in place to cover any administrative or inspection costs incurred by councils in this regard.

It is also noted that at the outset of the scheme, the 'close proximity' information required by small retailers will not be available, as the location of 'alternative return points' is likely to be unknown. The provision and development of communal facilities should be explored for areas with large numbers of small retailers, potentially in liaison with e.g. town centre or Business Improvement District managers, and council planning offices.

**Q45. Please can you provide any evidence on how many small and micro sized retail businesses we might likely expect to apply for an exemption to hosting a return point, on the grounds of either close proximity to another return point or on the compromise of safety considerations?**

NILGA does not have access to such data. This information may be available from trade organisations such as the Federation of Small Businesses, Retail NI and Hospitality Ulster, or could be collated from local authorities and Department of Finance (NI) LPS on the basis of rates payments and economic development data.

### *Obligations on exempted retailers*

**Q46. Do you think obligations should be placed on retailers exempted from hosting a return point to display specific information informing consumers of their exemption?**

**Yes**

If yes, please tick what information retailers should be required to display:

- a.) Signage to demonstrate they don't host a return point; **X**
- b.) Signage to signpost consumers to the nearest return point; **X**
- c.) Anything else?

Yes - Information on in-scope containers

**Q47. Do you agree with our rationale for not requiring retailers exempted on the basis of a breach of safety not to be required to signpost to another retailer?**

**Yes**

Please explain your answer.

Provision locally of a communal (possibly community owned) facility would overcome the issue of forcing one retailer to 'advertise' another.

### *Revoking an Exemption*

**Q48. How long do you think exemptions should be granted for until a review date is required to ensure the exemption is still required?**

- a.) 1 year
- b.) 3 years**
- c.) 5 years or longer

Three years, or on change of ownership of the premises, or return point host premises.

### *Using Technology in a Deposit Return Scheme*

**Q49. Do you think the scheme could benefit from technological solutions being incorporated as a method of return, alongside reverse vending machines and manual return points?**

**Yes**

**Q50. How could a digital deposit return scheme solution be integrated into existing waste collection infrastructure? Please explain your answer.**

Improved provision of separate collection for in-scope containers will be necessary, with emphasis on cleaning the containers beforehand. It should be noted that not all householders have

smartphones, and so an alternative return provision would need to continue unless another form of scanner is provided. Good communication of change will be required.

It is highlighted that the withdrawal of in-scope materials from household collections for a period of time, followed by resuming (an albeit altered) collection, will have significant impacts on council costs and contract arrangements. Suitable lead-in times will be required for changes of this nature, and provision should be made for councils to access the deposits lost from containers placed in household collection without householder redemption.

**Q51. What are the potential fraud control measures a digital deposit return scheme could bring?**

A digital system could assist in managing the risk associated with bin-raiding by people seeking to claim the deposits from other people's discarded drinks containers (from litter bins or recycling bins left out for collection). It is essential that any additional costs falling to Councils from such fraudulent activity (particularly in the short term) should be included in the calculation of FNCR so that producers do indeed pay the full cost of managing their wastes.

It is also noted that digital controls would assist in reducing the risk of cross-border fraud, but this would be further safeguarded by collaborative working between the government of the Republic of Ireland, DAERA and DEFRA, and the relevant DMO arrangements.

**Q52. Do you think a digital deposit return scheme could ensure the same level of material quality in the returns compared to a tradition return to retail model, given containers may not be returned via a reverse vending machine or manual return point where there is likely to be a greater scrutiny on quality of the container before being accepted?**

**No**

**Please explain your answer.**

This is unlikely in the short term - and will require good communication with householders in relation to their new collection arrangements. In Northern Ireland, for example, when separate food waste collections began, an uncompromising public messaging campaign was instigated. Some councils also found it useful to place large warning stickers on the bins of those residents who continued to placing food in the residual waste bin, to deter this and encourage take up of the new system. Suitable receptacles were provided for each household. New systems take time to bed in, and the DMO would need to factor in at least an initial dip in quality, in our view.

**Q53. If the digital deposit return scheme system can be integrated into the existing waste collection infrastructure would its implementation and running costs be lower? Please provide evidence to support your answer.**

Any new system will require provision of suitable receptacles and infrastructure, good communication with the public and integration of new collection routes/separate collection mechanisms. The main identifiable cost saving would be if there was use of existing council vehicles, but if the collection is outsourced to the private sector, then a new collection contract would need to be established.



The dip in collections, from the existing system to a reverse vending machine system, followed by return (in the main) to an improved form of collections, is likely to result in increased costs, due the chopping and changing in contracts and materials flows/supply chain.

### *Planning Permission for hosting a reverse vending machine*

**Q54. Do you support the proposal to introduce a new permitted development right for reverse vending machines, to support the ease of implementation for the scheme?**

**Yes**

**Do you have any amendments or additional parameters you would propose are reflected in the permitted development right?**

It should be noted that planning legislation in Northern Ireland is completely separate from that in England, and will require liaison with the Department for Infrastructure (NI) for change to be effected. The relevant legislation would be the *Planning (General Permitted Development) Order (Northern Ireland) 2015*.

## *6. Labelling*

**Q55. Do you agree that the following should be part of a mandatory label for deposit return scheme products?**

a) an identification marker that can be read by reverse vending machines and manual handling scanners. **Yes**

b) a mark to identify the product as part of a deposit return scheme. **Yes**

c) the deposit price.

**Yes**, although it should be noted that any changes to the deposit price will require a lead in time for producers to alter labels appropriately.

**Q56. Are you aware of further measures that can be taken to reduce the incidence and likelihood of fraud in the system?**

It should be ensured that the labelling system is difficult to counterfeit.

### *UK Internal Market Act – Mutual Recognition of Goods*

**Q57. Do you agree with our proposals to introduce mandatory labelling, considering the above risk with regards to containers placed on the market in Scotland?**

**Yes**, although NILGA would defer to colleagues in Scotland on this issue, and the views of e.g. Scottish Whisky producers should be sought. The all-island agri-food market in Ireland, although a separate issue, must also be given consideration.

**Q58. Do you consider the risk of incorrectly labelled products entering the markets of England, Wales or Northern Ireland via Scotland to be a significant risk?**

This is a possible risk, but it is hoped that Scottish drinks producers will be amenable to requirements in place in other part of the UK.

**Please provide any evidence to support your answer.**

NILGA has no quantitative or qualitative evidence in this regard, but cross-border customer numbers may be available from relevant trade bodies.

**Q59. Do you consider leaving any labelling requirements to industry to be a better option than legislating for mandatory labelling requirements?**

**No.**

**Please explain your answer.**

Mandatory labelling provides more clarity for all in the system and is less open to interpretation of requirements/style variations.

***Impact on Small Producers***

**Q60. Are you aware of any other solutions for smaller producers who may not currently label their products? Please explain your answer.**

Stickers provided by DMO seems to be an appropriate solution, but views should be sought from smaller producers and via appropriate trade bodies, e.g. NI Food and Drink [www.nifda.co.uk](http://www.nifda.co.uk).

***Lead-in Times***

**61. We believe 18 months is a sufficient period of time for necessary labelling changes to be made. Do you agree?**

a.) Yes/ No

**N/A**

**Can you provide any evidence to support your answer?**

NILGA does not have sufficient information to enable an answer to be given to this question. It is noted that the industry previously indicated that 2-3 years was necessary.

***Producer/Retailer processes***

**62. Will your processes change as a result of mandatory labelling? Yes/ No/ Don't know. Please explain your answer.**

**N/A**

***Future proofing***

**63. Do you agree that our proposed approach to labelling will be able to accommodate any future changes and innovation? Yes / No / **Don't know****

Are you aware of any upcoming technology in the field of labelling?

No.

## 7. Local Authorities and Local Councils

### Options Presented:

*1: Do nothing. Local authorities redeem deposits of deposit return scheme containers in collection streams.*

*2: The DMO makes payments for deposit return scheme containers appearing in all local authority waste streams (preferred option).*

*3: Hybrid option – The DMO pays a deposit value on containers that are returned and any additional deposit return scheme material in local authority waste streams is covered by a funding formula.*

**Q64. Do you agree that local authorities will be able to separate deposit return scheme containers either themselves or via agreements with material recovery facilities to regain the deposit value?**

- Yes

- No

**Please explain your answer**

Arrangements could be made, with the necessary resources made available, and a realistic timeline in relation to contracts, staffing etc., to institute a new system, although the infrastructure deficit in Northern Ireland is likely to cause issues, with much greater reliance on contractors than preferred, and difficulty in complying with the proximity principle.

It should be noted that in Northern Ireland, there is no Materials Recycling Facility code of practice in place, and that this will need to be addressed by DAERA as a matter of urgency. We are also awaiting the outcome of a recent 'Future of Recycling' consultation, which will have a direct bearing on the outcome of this question.

**Q65. Do you agree that local authorities will be able to negotiate agreements with material recovery facilities to ensure gate fees reflect the increased deposit values in waste streams or a profit sharing agreement on returned deposit return scheme containers was put in place?**

- Yes

- No

**Please explain your answer.**

These are massive systemic changes, and both councils and MRF operators need to grapple with how they adapt to resulting changes in composition. A great deal of pre-planning will be required. It must be emphasised that all material collected at kerbside does not mirror all material gathered in EPR and the proposed DRS.

In terms of material value, if councils are developing a gate fee contract they won't know what benefit they are getting in terms of reduced gate fee for that recycling element, but would get something offset against costs as if 'built in'. Councils could be in a precarious position as the market value for some of the products is extremely high, with uncertainty in relation to return if these are offset and councils are paying through a gate fee mechanism. Attention needs to be paid to composition and councils will need to explore data provision with some contractors. Also recycling targets will be affected, with implications for council legal obligations. There are issues for Northern Ireland arising from the ongoing infrastructure and policy deficit, as noted at Q64.

**Q66. In order to minimise the risk of double payments from the Deposit Management Organisation to local authorities, where should data be collected regarding the compositional analysis to prevent the containers then being allowed to be redeemed via return points?**

The principle of Option 2 sounds reasonable if material cannot be reasonably separated out, although the payment mechanism and associated costs for an 'efficient and effective collection' and the various payment groups would require further consultation and agreement. There should also be capacity for an appeals system if a council can demonstrate it has been inappropriately categorised or the payments do not reflect the costs incurred.

Compositional analysis would be required at the MRF, checking individual bins is a very expensive process and is likely to be less representative due to a smaller sample size. Compositional analysis at the MRF does potentially open the system up to fraud where councils may receive a relatively constant payment and the MRFs claim any excess deposits if there are any.

It is noted that an assumption has been made that the proportion of 70% of recycling of drinks beverage packaging would continue once the DRS material has been removed. NILGA believes this is unlikely to remain constant as residents which currently recycle well may be more likely to use the DRS return options. The 7% estimation for the kerbside recycling may therefore not be representative if the high DRS rate of 90% is achieved, furthermore the proportion in the residual could also be higher. Further modelling and compositional once the DRS system is in place would be required to ensure council payments were representative of the materials being collected.

NILGA notes a recent survey of LARAC members which found that there was no overall preference for who should be undertaking, organising the compositional analysis between the MRF, The DMO, or an approved third party. LARAC members were however clear that it should not be the local authority which has to undertake the compositional analysis.

**Q67. How difficult do you think this option would be to administer, given the need to have robust compositional analysis in place? Please explain your answer.**

This option is only a potential approach if the majority of councils can separate DRS material which will rely on MRFs to provide the data. Having reliance on compositional analysis is expensive and would need to be carried out on a regular basis to ensure it is representative. If a variable deposit is

introduced, this would be very difficult to verify in a standard compositional analysis and would require even greater monitoring.

A simpler and cheaper alternative is to consider mass balance. If it is known what has been placed on the market, the vast majority of this will have a relatively quick turnover. It would therefore be reasonable to assume that once the deposits have been reclaimed at return points most of the remaining material will be collected by local authorities either in the kerbside recycling, residual bin or littered. Occasional compositional analysis could be completed to confirm this. Therefore, NILGA considers it will be difficult to administer this option and does not support it.

**Q68. What option do you think best deals with the issue of deposit return scheme containers that continue to end up in local authority waste streams?**

**a. Option 1**

**b. Option 2**

**c. Option 3**

**Please briefly state the reasons for your response. Where available, please share evidence to support your view.**

NILGA strongly supports option 2, as this maximises the potential return of DRS material and offers a fair system of payment to cover all the DRS material councils collect (recycling, litter, and residual).

The DMO will be able to determine the weight/quantity of all in-scope material placed on the market and, through return points, determine the proportion that has been redeemed. Assuming that the system is sufficiently effective to minimise or eradicate material 'leakage', and that reporting timescales account for material that may be retained by the householder with the intention of redeeming deposits in future (stockpiling) it can be reasonably stated that all remaining material will fall upon the council to deal with, through kerbside recycling, residual waste containers, HWRCs, litter (on street and in litter bins) and also illegal waste disposal (fly tipping). A council should not be financially disadvantaged for failures in the DRS that the council cannot control.

## ***8. Compliance Monitoring and Enforcement***

**Q69. Are there any other producer obligations you believe the Environmental Regulators should be responsible for monitoring and enforcing?**

In Northern Ireland particularly, attention will need to be paid to cross-border (North/South) producer activity, as we are aware that producers may be operating on an all-island basis. This will be important, specifically in relation to appropriate labelling. Additional complexity may arise as a result of Brexit, and enforcement/monitoring activity may be necessary to include in checks at sea and air ports.

**Q70. Are local authorities (through the role Trading Standards and the Primary Authority Scheme) best placed to enforce certain retailer obligations?**

**Yes**, with appropriate resources provided. It must be highlighted that in Northern Ireland, there is a split in responsibilities. The Department for Economy is responsible for Trading Standards (e.g. weights and measures), with the 11 district councils responsible for Consumer Safety/Protection.

Given the scale of the proposed DRS, and in light of 'Better Regulation' principles it is the NILGA view that the regulation of retailer obligations in Northern Ireland would be best delivered by councils, aligned with other responsibilities such as environmental health, which see council officers in retail premises on a regular basis in a regulatory role. It is important for both Defra and DAERA to note that at present, the New Burdens Doctrine applicable in other parts of the UK, is not in place yet in Northern Ireland and that appropriate resources will be required to ensure regulation by councils can take place.

**Please give any alternative suggestions.** **N/A**

**To what extent will local authorities be able to add monitoring and enforcement work for the deposit return scheme to existing duties they carry out with retailers?**

Adequate resources, including initial training, will be required. See response to Q70 above.

**Q71. In addition to those in the table, are there any other types of breaches not on this list that you think should be? If so, what are they? These may include offences for participants not listed e.g. reproprocessors or exporters.**

**Producers:** adding a label to product that doesn't meet requirements

**Importers** (to NI from Scotland or Republic of Ireland): Non-compliance with labelling requirements

**Exporters** (from Scotland): Non-compliance with labelling requirements

**Retailers:** Not storing returned material safely – should include hygiene and pest proofing requirements

**Councils, MRF operators:** Fraudulent activity

**Q72. Are there any vulnerable points in the system? Please explain your answer?**

Materials movements, between UK regions and between NI and ROI, could cause complexities and potential confusion for producers, particularly small producers, as well as provide opportunities for fraudulent activity.

Storage of in-scope containers could lead to fraudulent activity.

The scale of the system will cause compliance and enforcement difficulties for the DMO unless sufficient and credible staffing is provided at local level. In Northern Ireland, this will require a sufficiently resourced regulator (which we believe should be independent rather than an offshoot of DAERA), and sufficiently resourced councils (in the absence of appropriate New Burdens arrangements). Provision of a regional office of the DMO should be considered.

**Q73. Do you see a role for the Deposit Management Organisation to seek compliance before escalating to the Regulator?**

**Yes,** for retailers, producers and councils; early attempts to resolve issues can only assist in the smooth running of the system and development of good communications/working relationships.

**Q74. Do you agree with the position set out regarding enforcement response options? If not, please expand your answer.**

Further to our response to Q73, if the DMO is a provider of advice and guidance, then an initial advisory/guidance stage from the regulator could prove duplicative and unnecessarily elongate the regulatory process. A regulation 'flow' should include any initial DMO activity in this regard.

NILGA is keen to ensure that the costs of enforcement are fully covered, to ensure that enforcement can be delivered effectively. It is the experience of local government in Northern Ireland that a system reliant on fixed penalty payments for cost recovery usually requires supplementary resources to cover the accompanying burden of administrative and legal costs.

## **9. Implementation Timeline**

**Q75. Do you have any comments on the delivery timeline for the deposit return scheme? Please pose any views on implementation steps missing from the above?**

The timeline seems very ambitious, and will need to take into account the lead-in times required by scheme participants, particularly where production or contracting changes are required.

Additionally, a number of key policy pieces are not in place in Northern Ireland, such as decisions on the future of recycling, 'TEEP' policy and a MRF code of practice; these will need to be agreed and published as soon as possible.

NB: The current NI Assembly mandate is due to end in 2022, with an accompanying period of heightened political sensitivity around the election and consequent constraints on time available for legislative passage. This may have an impact on timings for regulations required to be passed by the NI Assembly. Additionally, implementation of the Planning Act (Northern Ireland) 2011 is under review, which may impact on timing of changes to planning legislation (e.g. PD rights) that are necessary to the implementation of the DRS.

The timeline for consideration and delivery of the necessary digital infrastructure seems overly optimistic.

**Q76. How long does the Deposit Management Organisation need from appointment to the scheme going live, taking into account the time required to set up the necessary infrastructure? Please provide evidence to support your answer.**

a.) 12 months

b.) 14 months

c.) 18 months

**d.) Any other (please specify)**

At least two years, if not longer.

**Q77. Depending on the final decision taken on the scope of the scheme in England and Northern Ireland – all-in or on-the-go – what, if any, impact does this have on the proposed implementation period?**

An all-in scheme is likely to take longer to set up and implement due to the wider variety of materials, container sizes, greater need for storage space/provision of reverse vending machines at retail outlets, more complexity in development of local circular economy jobs.

## **10. Summary of Approach to Impact Assessment**

**Q78. Do you agree with the analysis presented in our Impact Assessment?**

**Yes –** broadly, but with the caveat below.

**Please briefly state the reasons for your response. Where available, please share evidence to support your view.**

NILGA notes that in the associated Impact Assessment, only limited data is available from the developed administrations, and that “territorial data that will allow a bottom up compilation of estimations at that level is being sought”. Projections from England in relation to the impact assessment for Northern Ireland may or may not be useful.

### **Disclaimer**

*The Northern Ireland local government association (NILGA) endeavours to ensure that the information contained within our website, policies and other communications is up to date and correct. We do not, however, make any representation that the information will be accurate, current, complete, uninterrupted or error free or that any information or other material accessible from or related to NILGA is free of viruses or other harmful components.*

*NILGA accepts no responsibility for any erroneous information placed by or on behalf of any user or any loss by any person or user resulting from such information.*