

For the future of our environment

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# SCOTLAND'S DEPOSIT RETURN SCHEME

## SEPA's approach to regulation

MARCH 2023

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It is important that businesses understand their obligations and are taking action now to be ready for Scotland's Deposit Return Scheme.

The Scottish Environment Protection Agency (SEPA) has published an extensive amount of information on our website to help producers and retailers understand their obligations [www.sepa.org.uk/DRS](http://www.sepa.org.uk/DRS)

### Our regulatory approach

Our overall regulatory approach is focused on enabling compliance with the law, with an emphasis on preventing non-compliance from occurring in the first place or from escalating significantly.

SEPA remains committed to providing advice and guidance as the preferred route of achieving compliance for businesses who are striving to meet their obligations.

This follows SEPA's overall enforcement policy (<https://www.sepa.org.uk/media/219244/enforcement-policy.pdf>).

SEPA's regulatory approach for obligated businesses can be summarised as:

- **Explain** – these are your obligations, and this is what they mean
- **Check** – have you achieved compliance with your obligations?
- **Enforce** – proportionate and targeted action is taken in the event of non-compliance

For many non-compliances, advice and guidance will be the only action we take.

For more serious non-compliance or illegal activity that undermines the operation of Scotland's Deposit Return Scheme, SEPA can choose from a range of enforcement tools. This will be

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dependent on the scope, scale and intent of the non-compliance, and the outcome we want to achieve by our action.

We will continue to support businesses where needed, now and after the scheme goes live, and adjust our approach as necessary to ensure that:

- compliant businesses and DRS champions are recognised for their good practice;
- we continue to help those who want to comply but are struggling to take action;
- deliberate, persistent and serious non-compliance is brought into compliance or stopped.

## What does this mean in practice?

Through our regulatory approach we will:

- **Build trust and confidence** - reassuring businesses, who have never previously had an interaction with SEPA, of our supportive approach to regulation. As an independent regulator, we will take appropriate action when required.
- **Prevent non-compliance** - ensuring businesses understand their obligations and are taking action to prepare and implement Scotland's Deposit Return Scheme.
- **Give clarity to those who want to do the right thing** - supporting those to who intend to comply but experience operational challenges by signposting to guidance and agreeing actions and milestones towards compliance.
- **Prevent non-compliance from escalating significantly** - making sure our regulatory approach does not provide a 'loophole' for anyone looking to circumvent their statutory responsibilities and undermine the operation of the scheme.

## DRS compliance checking and regulatory approach from Day 1

### Compliance checking: how will we identify non-compliances?

To identify where there is non-compliance, we will look at how businesses are complying with their obligations. The types of checks we will use to help us do this include:

- geographic campaigns – visiting premises where scheme articles are being sold and working cooperatively with other partners.

- inspect the counting and bulking up centres handling returned DRS containers.
- test purchases.
- analysis of enquiries to identify high impact areas where additional guidance is needed.
- responding to reports from the public and obligated businesses concerning non-compliance.
- data analysis from return point collections.
- audit of scheme administrator governance and data management.

## Enforcement: what action will SEPA take?

**For many non-compliances SEPA identifies, advice and guidance will be the only action we take.**

### This will apply to:

- Businesses who want to comply but are struggling to act.
- Businesses who didn't know they had new obligations.
- Businesses who have made an effort to comply with their obligations but need to take further steps to achieve compliance.

### Action we will take:

1. Discuss with the business to understand the reason for non-compliance.
2. Provide appropriate advice and guidance, which will include signposting to:
  - a. published SEPA regulatory guidance and FAQ's;
  - b. CSL operational guidance and registration;
  - c. Zero Waste Scotland exemption guidance.
3. Agree actions (if necessary) with the obligated business so they know what they must do and by when.
4. Check progress at agreed date.

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## For more serious non-compliance/illegal activity that undermines the operation of DRS in Scotland.

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This will apply to:

- Deliberate, persistent, and serious non-compliance.

Action we will take:

A range of enforcement tools can be used, depending on the scope, scale, and intent of the non-compliance, and the outcome we want to achieve.

For more information, see the enforcement policy and guidance pages of the SEPA website

<https://www.sepa.org.uk/regulations/enforcement/>

For information on accessing this document in an alternative format or language, please contact SEPA by emailing [equalities@sepa.org.uk](mailto:equalities@sepa.org.uk)

If you are a user of British Sign Language (BSL), the Contact Scotland BSL service gives you access to an online interpreter, enabling you to communicate with us using sign language.

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