

Tackling Scotland's Throwaway Culture

**Introducing Market Restrictions on
Problematic Single-Use Plastic Items
in Scotland**

Public Consultation

October 2020



Scottish Government
Riaghaltas na h-Alba
gov.scot

Ministerial Foreword

Tackling the negative impact that plastic waste has on our communities, oceans, rivers and land ecosystems has never been more important. Failing to act to protect our finite natural resources and to address the significant economic, social and environmental challenges associated with plastic litter is simply not an option. We must act to address the linear consumption model for single-use plastic items which remains far too prevalent.

Through steps such as the introduction of Scotland's deposit return scheme for single-use drinks containers we are working to improve the way we manage the materials we use, keeping them in high value use for as long as possible. Last year, Scotland became the first country in the UK to ban plastic-stemmed cotton buds. However, we know that many of the other single-use plastic items on which we have come to rely must also be tackled. We also know that, in most instances, these items can be substituted for alternatives which mitigate long-term negative impacts on our marine environments.

We need only look at the voluntary steps already being taken by businesses and services across the country to switch to more sustainable products, be it cutlery, straws or food containers. We want to see businesses, services and the public build on these efforts to phase out single-use plastics with a move to a more circular economy, where reusable alternatives reduce the amount of material used and significantly reduce the overall negative environmental impacts associated with the products they supply.

To support us on this journey, this consultation proposes the introduction of market restrictions – effectively a ban – on the single-use plastic items most commonly found littered on European beaches. It represents an important next step in our efforts to tackle our plastic problem, allowing us to maintain pace with the environmental standards of our European partners while re-affirming Scotland's position as a world-leader in the circular economy. Subject to the outcome of the consultation, it would be our intention to legislate for these changes in 2021.

We are committed to working with all of our partners, both domestically and internationally, to implement measures which deliver maximum protection of, and benefit for, the environment in which we live. As part of this, we will continue consider what further steps we can take beyond those set out in this consultation to end our reliance on single-use products.

The ongoing challenges we all face in responding to Covid-19 further reinforce the need for a carefully considered approach to the introduction of any market restrictions. I appreciate how wide-ranging these changes are likely to be. That is why this consultation is so important and I would encourage all of you with an interest in these proposals to take this opportunity to have your say.

I look forward to hearing your views.

ROSEANNA CUNNINGHAM

Responding to this consultation

Please respond to the consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at: <https://consult.gov.scot/zero-waste-delivery/introducing-market-restrictions-on-single-use-plas/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the **closing date of 4 January 2021**.

If you are unable to respond through the online platform, please complete the Respondent Information Form (see 'Handling of your response' below) and send it, along with your consultation response, to: SUPD@gov.scot.

Handling of your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled, including whether you are happy for your response to be published.

If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to:

SUPD@gov.scot

Introduction

1. This consultation is seeking views on the introduction of market restrictions – effectively a ban – for problematic single-use plastic (SUP) items and all oxo-degradable products in line with Article 5 of the EU Single-Use Plastics Directive (EU) 2019/904 (hereafter referred to as the “SUP Directive”). The consultation will run for a period of twelve weeks.

2. The proposed introduction of market restrictions forms part of a package of wider measures being taken forward by Scottish Ministers to address marine litter and support a shift away from our throwaway culture. Annex A describes how implementation of these wider measures will support Scotland’s transition to a more circular economy which meets the wider requirements of the SUP Directive.

Background

3. The SUP Directive aims to tackle pollution from single-use plastics and fishing gear (these being the items most commonly found on European beaches) and promote the transition to a circular economy.

What is single-use plastic?

The SUP Directive applies to the single-use plastic products listed, products made from oxo-degradable plastic and to fishing gear containing plastic.

The SUP Directive covers single-use plastic products that are fossil-based and bio-based, regardless of whether they are recyclable, biodegradable or compostable. Please note this includes some materials made from starch blends, such as maize/corn or potatoes, which might not be described as plastic but can be modified natural polymers. Single-use plastic products made of multi-layered or composite materials, such as plastic-coated paper or plastic-lined cartons, are also in scope of the SUP Directive. For a full definition of ‘plastic’, please refer to Article 3 of the SUP Directive¹.

A single-use plastic product, for the purpose of the SUP Directive, is a product that is made wholly or partly from plastic and “is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer for refill or re-used for the same purpose for which it was conceived”.

4. The products identified in the SUP Directive are subject to a range of measures including consumption reduction initiatives, market restrictions, product and marking requirements, extended-producer responsibility schemes, separate collection targets and awareness raising.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019L0904&from=EN#d1e555-1-1>

A Throwaway Society - The Case for Change

5. The case for confronting and addressing Scotland's throwaway culture is compelling. The pollution of our oceans, rivers and land ecosystems by single-use items is a global challenge and a major cause of biodiversity loss. While plastic products have many positive uses within society and plastic has become integral to modern life, the current model of single use plastic consumption and disposal is not sustainable.

6. There are environmental impacts, be it carbon emissions, ecosystem damage or greater pressure on water resource, associated with all of the products we produce. When single-use items then make it into our waste management system they are often hard to recycle and end up being landfilled or incinerated. This results in the valuable energy, materials and labour that went into making them being lost and more products being produced to replace them.

7. In addition to these environmental impacts, single-use items also directly affect citizens through the hidden costs associated with their disposal. Disposable items make up most of our roadside and residential litter, carrying with it the potential to cause harm to human health, safety and welfare. It also comes with large economic costs, impacting the Scottish taxpayer to the tune of approximately £78 million per year.

8. A more circular society can reduce these impacts by using products for longer, enabling the reuse of products and ensuring better recyclability as part of product design.

9. The problems detailed above are caused by single-use items made from a range of slowly degrading materials including metals, glass and of course plastic. As well as single-use items, a significant proportion of plastic fishing gear placed on the market is not collected for treatment and can, like other plastic products, pose a serious risk to marine ecosystems, biodiversity, and to human health.

10. A recent study² published by the Pew Charitable Trusts states that, without considerable action to address plastic pollution, the flow of plastic into the ocean is projected to nearly triple by 2040 (compared to 2016 levels), equivalent to 50kg of plastic entering the ocean for every metre of coastline worldwide.

11. The durability, versatility and widespread use of plastic has been a significant factor in modern lifestyles and it is these same characteristics that make this material so damaging in the marine, freshwater and terrestrial environments. Plastic represents 20% of all terrestrial litter in Scotland³, and it is the most commonly found litter item on Scottish beaches⁴ with nine out of the top ten items containing plastic.

12. It is therefore clear to see why plastics have been a key focus of efforts by industry, Government and others to tackle problematic single-use disposable items.

² https://www.pewtrusts.org/-/media/assets/2020/07/breakingtheplasticwave_summary.pdf

³ <https://www.zerowastescotland.org.uk/sites/default/files/Scotland%27s%20Litter%20Problem%20-%20Full%20Final%20Report.pdf>

⁴ 2019 Great British Beach Clean data, Marine Conservation Society

We welcome the various voluntary initiatives undertaken by consumers, businesses and industry to tackle this issue and we fully support the EU vision of phasing-out single-use plastics wherever possible. Our efforts to meet or exceed the standards set out in the SUP Directive will help to reinforce Scotland's position as a leader in the circular economy, forming an important component of our work to challenge the model of single-use consumption as a whole. Those efforts are underpinned by the work of our Expert Panel on Environmental Charges and Other Measures (EPECOM) who have recently published their second report⁵, looking at the issue of single-use items in a holistic way.

13. The current COVID-19 pandemic has introduced some new challenges, exposing our reliance on single-use items which have been utilised as a means to suppress transmission of the virus and support the continued functioning of society. While we cannot ignore the long-term damage to the environment caused by this approach, any change must be carefully managed and inclusively delivered, maximising opportunities for business, our economy and society more broadly. This type of "Just Transition" is crucially important.

Scotland's Response

14. Efforts to tackle single-use plastics have been high on the agenda at European, UK and Scottish levels for some time.

15. Scotland is at the forefront of this change, taking concrete action at home as well as exchanging knowledge and practice with our international partners. The proposals set out in this consultation form part of our overall approach to reduce reliance on disposable items and sit alongside a broader range of initiatives already established or underway, including:

- Market restrictions in Scotland on plastic microbeads and plastic-stemmed cotton buds which came into force on 19 June 2018 and 12 October 2019 respectively;
- A 5p-levy on single-use carrier bags, with work underway to increase the charge to 10p;
- The establishment of a deposit return scheme for drinks containers including PET plastic bottles by 1 July 2022, with a 90% collection target by 2025⁶;
- The establishment of the Expert Panel on Environmental Charges and Other Measures (EPECOM)⁷ in May 2018 to explore measures to reduce the environmental impacts of on-the-go consumption in Scotland. The group published two reports: Recommendations on single-use disposable beverage

⁵ <https://www.gov.scot/publications/ending-throwaway-culture-five-principles-tackling-single-use-items/>

⁶ [The Deposit and Return Scheme for Scotland Regulations 2020](#) – schedule 3 (1) (c)

⁷ <https://www.gov.scot/groups/expert-panel-on-environmental-charging-and-other-measures/>

cups⁸ in July 2019 and Ending the Throwaway Culture: Five Principles for Tackling Single-use Items⁹ in September 2020;

- Ongoing work to reform the UK-wide producer responsibility scheme for packaging, with a commitment to consult on detailed proposals in 2021;
- A successful ‘Trial Period’ campaign¹⁰ to promote reusable menstrual products, delivered by Zero Waste Scotland on behalf of the Scottish Government;
- The requirement on businesses, public sector and not-for-profit organisations to present plastic (and other materials) for separate collection as set out under the Waste (Scotland) Regulations 2012;
- Becoming a signatory to the New Plastics Economy Global Commitment¹¹, led by the Ellen MacArthur Foundation and the UN Environment Programme, demonstrating our commitment to a circular economy for plastics;
- Becoming a founding signatory to the UK Plastics Pact¹², led by WRAP, a collaborative initiative that seeks to create a circular economy for plastics.

16. The UK Government is also progressing with plans for a UK-wide tax on plastic packaging which would encourage the use of higher recycled content in plastic packaging.

Market Restrictions on Single-Use Plastic Items

17. Building on the above action, we are now proposing to introduce market restrictions on single-use plastic items and on all oxo-degradable products as identified in Article 5 of the SUP Directive and intend to introduce Regulations in 2021 to effect this change. This would mean that, from this date, businesses could not supply these items in Scotland, irrespective of whether those businesses intend to charge for those items or not. The supply restriction would apply regardless of the channel of distribution (whether physical or online). Although it is not strictly required by the SUP Directive, we are also considering, through this consultation, the introduction of a restriction on the supply of these items where the supply is not in the course of a commercial activity (for example, the supply by individuals in a personal capacity) and the manufacture of these items.

18. A market restriction has already been implemented in respect of plastic-stemmed cotton buds in keeping with the requirements of the Directive. This consultation therefore focuses on the following products:

1. Single-use plastic cutlery (forks, knives, spoons, chopsticks);

⁸ <https://www.gov.scot/publications/report-expert-panel-environmental-charging-measures-epecom-recommendations-single-use-disposable-beverage-cups-july-2019/>

⁹ <https://www.gov.scot/publications/ending-throwaway-culture-five-principles-tackling-single-use-items/>

¹⁰ <https://www.trialperiod.scot/>

¹¹ <https://www.newplasticseconomy.org/projects/global-commitment>

¹² <https://www.wrap.org.uk/content/the-uk-plastics-pact>

2. Single-use plastic plates (plates, trays/platters, bowls);
3. Single-use plastic straws;
4. Single-use plastic beverage stirrers;
5. Single-use plastic balloon sticks;
6. Single-use food containers made of expanded polystyrene;
7. Single-use cups and other beverage containers made of expanded polystyrene, including their covers and lids;
8. All oxo-degradable products.

More detailed definitions of these items are included below.

19. By introducing market restrictions, the Scottish Government wishes to see innovative solutions towards more sustainable business models and re-use alternatives prioritised over substitution of materials. The Scottish Government understands the problems caused by single-use items cannot be solved by replacing them with alternative single-use items made with different materials. While the focus is on the items listed above, the Scottish Government is committed to monitoring closely the response to these restrictions and assess what more needs to be done to address our throwaway culture.

20. The items covered by the SUP Directive are based on the most commonly littered items found on beaches across Europe. The Scottish Government recognises that Scotland's beaches are blighted by some items not identified by European level studies. Marine Scotland has identified **plastic wet wipes** and **plastic tampon applicators** as being particularly problematic. The **UK Plastics Pact's list of items to be eliminated by end of 2020**¹³ covers similar items to those in the SUP Directive as well as packaging made of PVC.

21. It is the Scottish Government's intention to explore further market restrictions on this wider range of items in due course. This would reduce the amount of marine litter found on Scotland's beaches, and support the actions already taken by some industry actors.

Definition of items subject to proposed market restrictions

Single-use plastic balloon sticks



Balloon sticks are made of plastic that are attached to balloons to give the impression they are floating. The stick has a 'cup' attached so it can fix to the balloon without puncturing it. They are often used by restaurant chains, charities and the party sector. Although usually sold business to business, end users are often individuals, and mainly children.

Plastic balloon sticks which are to be attached to or support balloons for industrial or other professional uses and

¹³ <https://wrap.org.uk/content/eliminating-problem-plastics>

applications that are not distributed to consumers, including the mechanisms of such sticks, are proposed to be exempt from market restriction.

Examples of items included in the scope of market restrictions: single-use balloon stick made of plastic.

Examples of items excluded from the scope of market restrictions: plastic reusable balloon stands; balloon sticks intended for repeated use by professional decorators (considered to be multiple-use); and those covered by the exemption described above.

Single-use plastic straws



“Straws” typically refers to thin tubes used to suck liquid into the mouth¹⁴. Disposable plastic drinking straws are typically made of polypropylene, can be rigid or flexible, plain or coloured and they can come wrapped in paper or film for hygiene purposes, such as those attached to beverage cartons. They are sold to both commercial and domestic sectors.

Most straws are bought business-to-business and supplied in restaurants, pubs, hotels, retail and schools. Straws are also used in a medical context in order to safely administer pre-dosed medicines.

Flexible plastic straws can physically enable consumption of drinks, including hot drinks, and liquid food for medical purposes but also fulfil a social need for people relying on them as they support independent living and social inclusion for disabled people.

The Scottish Government recognises that some single-use items, made of plastics or other material, perform a vital function which cannot be easily replaced with a more sustainable alternative or provide crucial quality of life enhancing functions for disabled people. This is particularly true for plastic straws.

Single-use plastic straws are essential for some disabled people to be able to drink safely and conveniently, when in or out of their home, with proposed alternatives often being unsuitable due to flexibility, safety and cost. The SUP Directive requires EU Member States to heavily restrict access to single-use plastic straws for environmental purposes but affords exemptions where these are provided for medical use and to support independent living.

The Scottish Government wants to take an open approach and hear the views of disabled people on how best to satisfy the above requirements of the SUP Directive whilst maintaining access to single-use plastic straws for those who need them.

¹⁴ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/straw>, Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/straw>

Examples of items included in the scope of market restrictions: disposable plastic drinking straws and non-plastic straws with plastic or biodegradable liners/coatings.

Examples of items excluded from the scope of market restrictions: plastic straws provided for medical use and to support independent living; non-plastic straws without plastic liners/coatings; non-plastic durable straws; and rigid plastic straws designed for multiple uses.

Single-use plastic cutlery (forks, knives, spoons, chopsticks)



Cutlery typically refers to serve-ware used for eating food¹⁵. Disposable cutlery includes forks, knives, spoons, chopsticks and sporks (combined fork and spoon). They are often supplied for free to consumers being served food in catering and takeaway businesses, sold with ready meal foods or sold directly to consumers in supermarkets to be used at home.

Examples of items included in the scope of market restrictions: single-use plastic cutlery individually wrapped, such as on aircraft; mini tasting forks and spoons such as those sold with ice-cream tubs; combined forks and spoons with lunchtime pasta/salads; and single-use plastic cutlery made partly or fully from bio-based plastic.

Examples of items excluded from the scope of market restrictions: non-plastic cutlery without plastic liners/coatings; plastic multi-serve cutlery (e.g. serving utensils); non-plastic durable cutlery; and rigid plastic cutlery designed for multiple uses like camping gear.

Single-use plastic beverage stirrers



Stirrers (or beverage stirrers) typically refers to a small rigid rod used for mixing drinks¹⁶. These are mainly used in the hospitality sector, i.e. pubs, clubs and restaurants.

¹⁵ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/cutlery>, Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/cutlery>

¹⁶ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/swizzle-stick>, Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/swizzle-stick>

Examples of items included in the scope of the restrictions: single-use plastic stirrers used to help sugar dissolve in hot drinks or to mix drinks such as tea, coffee and various alcoholic/non-alcoholic beverages.

Examples of items excluded from the scope of the SUP Directive: non-plastic stirrers without plastic liners/coatings and non-plastic durable stirrers.

Single-use plastic plates



Plates refers to a dish from which food is eaten or served¹⁷. They are typically flat and round, however they often come in a variety of different shapes and sizes and have many uses including serving plates, dinner plates, side plates and saucers. For the purpose of these proposals, *trays/platters* for services purposes and *bowls* will also be considered as plates.

Single-use plastic plates are often sold directly to consumers in supermarkets to be used at home but can also be supplied for free when food is served in catering and takeaway businesses.

Examples of items included in the scope of market restrictions: single-use plastic plates made of expanded polystyrene; single-use paper plates with plastic or 'biodegradable' lining; single-use plastic trays/platters used for hors d'oeuvres, canapes, lunch sandwiches and desserts; single-use plastic bowls used for soup; single-use plastic on-the-go salad bowls; and large capacity single-use plastic bowls for serving.

Examples of items excluded from the scope of market restrictions: non-plastic plates/trays/bowls without plastic liners/coatings; non-plastic or plastic reusable plates/trays/bowls; and ready-packaged salad bowls.

Single-use food containers made of expanded polystyrene, incl. their caps and lids



Food containers are receptacles such as boxes, with or without a cover, used to contain food which:

- (a) is intended for immediate consumption, either on-the-spot or take-away,
- (b) is typically consumed from the receptacle, and
- (c) is ready to be consumed without any further preparation, such as cooking, boiling or heating.

This includes food containers used for fast food or other meals ready for immediate consumption but excludes beverage containers, plates, packets and wrappers containing food.

¹⁷ Cambridge Dictionary. Retrieved from: <https://dictionary.cambridge.org/dictionary/english/plate>, Collins Dictionary. Retrieved from: <https://www.collinsdictionary.com/dictionary/english/plate>

Market restrictions will only apply to food containers (including their caps and lids) made of expanded polystyrene (EPS) and extruded polystyrene (XPS) which is considered a subset of EPS.

EPS/XPS food containers are mainly supplied to consumers at takeaway businesses (high street vendors and street food vendors such as burger/chip shops and kebab shops). Some are used by the hospitality sector in hotels, pubs and restaurants.

Single-use cups and other beverage containers made of expanded polystyrene, incl. their covers, caps and lids

For the purpose of the SUP Directive, beverage containers are receptacles, with a capacity of up to three litres, used to contain liquid, such as beverage bottles or composite beverage packaging including their caps and lids, but not:

- (a) glass or metal beverage containers that have caps and lids made of plastic,
- (b) beverage containers intended and used for food for special medical purposes, that is in liquid form.

No beverage containers made of expanded polystyrene other than cups for beverages have been identified.



Cups for beverages are open usually bowl-shaped drinking vessels, with or without a cover or a lid, sold empty or containing beverages. Cups are mainly supplied for free to consumers when served a drink in catering and takeaway businesses, of which most are coffee shops/cafes. They are also sold in supermarkets to be used at home. These cups are most often utilised for hot drinks given the polystyrene's insulation properties.

Market restrictions will only apply to cups for beverages (including their covers and lids) that are made of expanded polystyrene (EPS) and extruded polystyrene (XPS) which is considered a subset of EPS.

Products made from oxo-degradable plastics



Oxo-degradable plastic refers to plastic materials that include additives which, through oxidation, lead to the disintegration of the plastic material into micro-fragments or to chemical decomposition.

Although presented and marketed as biodegradable, a significant body of evidence suggests that, in reality, oxo-degradable plastics simply break down into small fragments. These contribute to harmful microplastic pollution¹⁸ and negatively affect the recycling of conventional plastic.

¹⁸ <https://publications.europa.eu/en/publication-detail/-/publication/bb3ec82e-9a9f-11e6-9bca-01aa75ed71a1>

For that reason, as well as the difficulty for the consumer to identify the material, stakeholders, including plastic packaging producers and waste managers, broadly agree that such products no longer have a place in the market¹⁹.

Examples of items included in the scope of market restrictions: all products made of oxo-degradable plastic (not only single-use items) such as carrier bags, agricultural mulch films, plastic bottles²⁰, blister packaging, labels and caps.

¹⁹ Moving a way from single use: guide for national decision makers to implement the single-use plastics directive - Rethink Plastic alliance and Break Free From Plastic - https://rethinkplasticalliance.eu/wp-content/uploads/2019/10/2019_10_10_rpa_bffp_sup_guide.pdf

²⁰ <https://gov.wales/reducing-single-use-plastic-wales>

Questions

Question 1(a):

Do you support the proposal to introduce a restriction on the supply by businesses in a commercial capacity in Scotland on each of the single-use plastic items listed and all oxo-degradable products?

	Yes	No
Single-use plastic cutlery (forks, knives, spoons, chopsticks)		
Single-use plastic plates (plates, trays/platters, bowls)		
Single-use plastic straws		
Single-use plastic beverage stirrers		
Single-use plastic balloon sticks		
Single-use food containers made of expanded polystyrene		
Single-use cups and other beverage containers made of expanded polystyrene, including their covers, caps and lids		
All oxo-degradable products		

Question 1(b):

Please give reasons and where possible provide evidence to support the view expressed in response to Question 1(a).

Question 1(c):

Do you support the introduction of a restriction on the supply in a non-commercial capacity (rather than only in the course of commercial activity) of the specified single-use plastic and oxo-degradable items?

- (Yes/No)
- Please give reasons.

Question 1(d):

Do you support the introduction of a restriction on the manufacturing of the specified single-use plastic and oxo-degradable items, excluding those for which exemptions will be introduced?

- (Yes/No)
- Please give reasons.

Question 2:

To your knowledge, are any of the oxo-degradable products identified in this document present on the Scottish market? Are there any additional oxo-degradable products available on the Scottish market that we have not identified? Please provide evidence to support your answer.

Question 3:

The SUP Directive includes limited exemptions for single-use plastic straws and balloon sticks. Are there other exemptions we should consider in relation to the market restrictions being proposed?

- (Yes/No)
- Please give reasons.

Question 4:

How can we make sure disabled people have access to plastic straws if they require them for medical reasons or to support independent living, whilst at the same time restricting wider access for environmental purposes in a way that fulfils the SUP Directive requirements?

Question 5:

This consultation highlights other items that the Scottish Government intends to consider market restrictions for in future (plastic wet wipes, plastic tampon applicators and those other products contained in the UK Plastics Pact's list of items to be eliminated by end of 2020 which are not currently subject to existing or proposed market restrictions). Would you support the consideration of market restrictions on these items or any other items we haven't listed? Please provide reasons and evidence where possible.

Question 6:

Taking into account the accompanying Impact Assessments, can you identify any environmental, economic or social impacts we have not identified when developing the proposals contained in this consultation?

- Yes/No
- Please give reasons.

Question 7:

Do you believe the COVID-19 pandemic has resulted in changes to the market or wider economy that are not fully accounted for through this consultation?

- Yes/No
- Please give reasons.

Question 8:

Do you have any other comments that you would like to make, relevant to the subject of this consultation, that you have not covered in your answers to other questions?

ANNEX A

Implementing the Remaining Articles of the SUP Directive

In addition to restricting items placed on the market where alternatives are readily available, the SUP Directive introduces a range of other measures that contribute towards making a more circular lifecycle for plastics which has re-use, repair and recycling at its core. We fully support these ambitions and intend to build upon them, not only tackling single-use plastics but reducing single-use consumption as a whole. The work of the Expert Panel on Environmental Charging and Other Measures (EPECOM) has laid the foundations for our future approach and complements the initial requirements of the SUP Directive and its overall direction.

Achieving this shift will require collaboration and coordination across the value chain including amongst those designing, procuring and ultimately using these items. We also recognise that any alternative approach to single-use must not disproportionately impact any individual groups or individuals in Scottish society. Engaging with stakeholders as policy develops is critical to ensure views are heard and solutions developed which fulfil our commitments whilst balancing the needs of individuals and business.

The Scottish Government is committed to implementing the SUP Directive. The requirements of the other Articles are set out below together with existing actions and next steps that will help create a more circular plastics economy in Scotland.

Consumption reduction – Article 4

To achieve an ambitious and sustained reduction in the consumption of beverage cups and on-the-go food containers by 2026. This reduction should be measurable, quantitative and based on 2022 consumption levels.

The Scottish Government's ambition on single-use disposable beverage cups is to have a sustainable model of consumption by 2025, which includes the majority of beverages in Scotland being sold in reusable cups²¹.

Following the work of EPECOM, the Scottish Government has already consulted²² on the introduction of charges for the provision of items, such as single-use disposable items, that are harmful to the environment and that can be replaced with sustainable alternatives. We intend to initially prioritise the introduction of charges for single-use beverage cups and will establish a working group in 2021 to support the design of the charge, including arrangements for monitoring its effectiveness.

In light of feedback from the previous consultation, we will also consider how best to reduce consumption of on-the-go food containers in due course.

²¹ <https://www.gov.scot/publications/report-expert-panel-environmental-charging-measures-recommendations-single-use-disposable-beverage-cups-scottish-government-response/>

²² <https://consult.gov.scot/environment-forestry/circular-economy-proposals-for-legislation/>

The Expert Panel concluded that no one measure alone will be effective and so our approach to reducing single-use disposable cups must take the form of a joined-up response across government, business, communities and individuals. As indicated in the Panel's report²³, should a charge alone be insufficient to reduce consumption, the practicalities and viability of other measures will be given further consideration to see if they will drive the changes we wish to see.

Product design requirements – Article 6

By 2024 to ensure that plastic caps and lids remain attached to plastic beverage containers, such as bottles, when product is disposed of.

The Scottish Government continues to consider how best to implement this requirement and will progress discussions, including with the other UK administrations, in the coming months regarding our plans.

Any further action Ministers take will build on the work already underway in Scotland to implement a deposit return scheme for single-use drinks containers. In countries where similar DRS schemes are well established, estimates show at least 90% of collected bottles are returned with their caps²⁴. We therefore believe that when Scotland's DRS scheme is introduced in July 2022, a similar pattern would be seen for the caps of PET bottles in Scotland.

PET beverage bottles to contain at least 25% recycled plastic by 2025; and all beverage bottles to contain at least 30% recycled plastic from 2030.

The UK Government has recently concluded a consultation on a UK-wide tax on plastic packaging with less than 30% recycled content. The aim of the tax is to provide a clear economic incentive for businesses to use recycled material in the production of plastic packaging. This may in turn create greater demand for this material, stimulating increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.

This tax would apply to all plastic packaging that does not contain at least 30% recycled plastic. It is intended the tax would take effect from 2022. Further details of the proposed tax can be found on the UK Government website²⁵.

As a UK Plastics Pact member, we have committed to achieving an average recycled content target of 50% for PET bottles by the end of 2025²⁶. This commitment provides the Scottish Government with confidence that industry and other members are prepared to achieve, and indeed exceed, the requirements of the SUP Directive. We welcome and support this target for recycled content.

²³ <https://www.gov.scot/publications/report-expert-panel-environmental-charging-measures-epecom-recommendations-single-use-disposable-beverage-cups-july-2019/pages/4/>

²⁴ https://corporateeurope.org/sites/default/files/letter_on_tethered_cap-alternative_solution_council.pdf

²⁵ <https://www.gov.uk/government/publications/introduction-of-plastic-packaging-tax/plastic-packaging-tax>

²⁶ <https://www.wrap.org.uk/sites/files/wrap/The-UK-Plastics-Pact-Roadmap-v3.pdf>

Marking requirements – Article 7

Sanitary towels, tampons and tampon applicators, wet wipes, tobacco products with filters and cups for beverages that contain plastic to have conspicuous, clear and indelible marking on the packaging or product itself to inform customers of appropriate waste management options or disposal methods that should be avoided; and the presence of plastics in the product and the negative impact littering or inappropriate disposal can have on the environment.

The Scottish Government continues to consider how best to implement this requirement and will progress discussions, including with the other UK administrations, in the coming months regarding our plans

In considering this issue, we are mindful of the potential role that extended producer responsibility schemes can play in achieving at least some of the outcomes sought under Article 7 of the Directive. As an example, we anticipate that the forthcoming extended producer responsibility scheme for packaging will require producers to provide advice to consumers on the disposal of disposable beverage cups, including those made partly or wholly of plastic.

Extended Producer Responsibility – Article 8

Extended Producer Responsibility (EPR) schemes to be established for the following single-use plastic products so producers are responsible for the costs of awareness raising measures and the costs of cleaning up litter. For some products producers would also be responsible for the costs of waste collection or the costs of data gathering and reporting.

The products included are on-the-go food containers, packets and wrappers containing food for immediate consumption, beverage containers, cups for beverages, lightweight plastic carrier bags, wet wipes, balloons, tobacco products with filters and fishing gear.

The Scottish Government introduced a 5p levy on all carrier bags, including light weight plastic bags, in October 2014. This is estimated to have reduced single-use carrier bag use by 80% within a year of introduction²⁷. To continue to motivate behaviour change and further reduce the use of single use carrier bags, we intend to increase that charge to 10p using existing secondary legislation at the earliest opportunity. The intent of this existing policy is to reduce litter, recognising that carrier bags have a disproportionate impact on wildlife, notably in the marine environment. This is aligned with the SUP Directive's overarching ambition to reduce litter.

The Scottish Government is working jointly with the UK, Welsh and Northern Irish governments to develop a new UK-wide extended producer responsibility scheme for packaging. This will make producers liable for the full cost of dealing with packaging waste while stimulating investment in collection, sorting and reprocessing. The

²⁷ <https://www.zerowastescotland.org.uk/sites/default/files/SUCB%20Charge%20One%20Year%20On%20Report.pdf>

existing system of producer responsibility for packaging²⁸ has been in place since 1997 and stakeholders have expressed concern about a number of elements of the system. Detailed proposals for the revised scheme will be consulted on in 2021 and would cover on-the-go food containers, packets and wrappers, beverage containers and cups for beverages.

In our Circular Economy Strategy, Making Things Last, the Scottish Government identified Extended Producer Responsibility as a policy intervention which could drive innovation and greater circularity for certain products, by influencing product design as well as increasing reuse and recycling.

Greater circularity will deliver on the Scottish Government's commitments to lead in addressing the global environmental crises we all face, including marine plastic pollution but also climate change and biodiversity loss. In developing new Extended Producer Responsibility requirements, we will consider product impacts holistically and work with producers to launch schemes which promote products that support a more circular economy.

The Scottish Government recognises that our fishing fleets currently have limited choices for end of life gear disposal. EPR could support improvements in waste management for both fishing and aquaculture gear, growing our circular economy. We have therefore started work to better understand gear volumes, supply chains and current disposal options with a view to developing potential EPR scheme design options with industry.

Separate collection of beverage bottles – Article 9

77% of plastic beverage bottles (up to 3 litres) including their caps and lids to be collected separately by 2025, with 90% collected separately by 2029.

A deposit return scheme for drinks containers, including PET plastic bottles will be available across Scotland from 1 July 2022. The scheme has a legislative requirement for producers to collect a minimum of 90% of in-scope containers by the third full year of operation. All drinks bottles and cans that come in PET plastic, metal or glass, from 50ml to three litres will be included in the scheme.

Other plastic bottles, such as HDPE, and other drinks containers, such as cartons are not currently included within the DRS scheme. These will however be subject to the revised EPR scheme for packaging, mentioned in the section above. We would anticipate that collection and recycling rates of these items would improve as a result.

Scottish Ministers must, before 1 October 2026, carry out a review of Scotland's DRS scheme and lay a report before the Scottish Parliament. The review must, among other things, consider the materials included within the scheme. At this stage HDPE drinks bottles and drinks cartons will be considered for inclusion within the scheme. The extent to which the combination of the currently proposed DRS and

²⁸ <https://www.gov.uk/government/collections/producer-responsibility-regulations#packaging>

EPR schemes is satisfying the requirements of the SUP Directive will inform that consideration.

The Scottish Government also recognises the need to prioritise reuse within the circular economy to ensure the goods we manufacture remain within the economy for a longer period of time. This will reduce the materials we consume and so the carbon and other environmental impacts Scotland is responsible for. We therefore propose to explore how Scotland can align with the SUP Directive's ambition to promote circular approaches that give priority to sustainable and non-toxic reusable products and reuse systems, rather than to single-use products, aiming first and foremost to reduce the quantity of waste generated.

Awareness raising – Article 10

For the items listed below, incentivise responsible consumer behaviour to reduce litter, and inform consumers about the availability of reusable alternatives, reuse systems and waste management options, the impact of littering and other inappropriate disposal on the environment and the sewer network.
Items to include: on-the-go food containers, packets and wrappers intended for immediate consumption, beverage containers, cups for beverages, tobacco products with filters, wet wipes, balloons, lightweight plastic carrier bags and sanitary towels, tampons and tampon applicators.

Raising consumer awareness of the impact that plastic litter and inappropriate disposal of plastic products can have on the environment is critical. Furthermore, as leaders in the circular economy, we recognise the need to reduce demand for all single-use items, promote reusable alternatives and reuse systems, and reduce pressure on our natural resources.

However, we consider awareness campaigns to be complementary measures which are employed in conjunction with other regulatory and voluntary interventions.

Where we introduce EPR requirements for certain items, we will require identified producers to carry out sustained communications that can fulfil the requirements of this Article. Furthermore, the package of other interventions described above will provide many opportunities for the Scottish Government to raise awareness about single-use items.

While this consultation focuses on market restrictions, we also hope it will raise awareness of the wider issues of reuse, resource consumption and how we progress to a circular economy.

Designing policy to tackle single-use items is complex, with many factors to consider and trade-offs involved. Over the coming years, we will engage and listen to a wide range of stakeholders, drawing upon the principles set out by EPECOM²⁹ to develop and shape the measures identified to protect Scotland's environment and create a circular economy in a way which is fair and inclusive. We will use the opportunities presented during this process to raise awareness more broadly with consumers in Scotland.

²⁹ <https://www.gov.scot/publications/ending-throwaway-culture-five-principles-tackling-single-use-items/>

Reporting and reviewing – Articles 13 and 15

The European Commission will carry out an evaluation of the SUP Directive by July 2027 based on information reported by EU member states each calendar year.

The Scottish Government recognises the value of reporting and reviewing identified by the European Commission, including the importance of understanding the effectiveness and impacts, such as material changes, of the measures proposed. We intend to track, report and review the impacts of our measures and monitor developments internationally to ensure the sharing of best practice.

A new governance body, Environmental Standards Scotland, is proposed in the Continuity Bill to replace the system of environmental governance provided by the institutions of the European Union which will be lost at the end of transition. The proposed new body will be responsible for making sure that public authorities in Scotland correctly apply environmental law, and that environmental law in Scotland is effective in protecting nature and our wellbeing.



Introducing Market Restrictions on Problematic Single-Use Plastic Items in Scotland

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- ☐ Individual
☐ Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☐ Publish response with name
☐ Publish response only (without name)
☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

☐ Yes

☐ No



© Crown copyright 2020



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80004-156-1 (web only)

Published by The Scottish Government, October 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS767726 (10/20)