

*Draft Order laid before the Scottish Parliament under section 58(3) of the Regulatory Reform (Scotland) Act 2014 for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2020 No.**

**ENVIRONMENTAL PROTECTION  
ENFORCEMENT**

**The Environmental Regulation (Enforcement  
Measures) (Scotland) Amendment Order 2020**

*Made - - - - 2020*

*Coming into force in accordance with article 1*

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 20 to 32, 53, and 58(1) of the Regulatory Reform (Scotland) Act 2014<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 58(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2020 and comes into force on the day after the day on which it is made.

**Amendment of the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015**

2.—(1) The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015<sup>(2)</sup> is amended in accordance with paragraph (2).

(2) At the end of the table in schedule 4 (relevant offences and fixed penalty amounts), after the final row insert (as a new row and in the appropriate columns)—

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**“The Deposit and Return Scheme for Scotland Regulations 2020<sup>(3)</sup>”**

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(1) 2014 asp 3.

(2) S.S.I. 2015/383, relevantly amended by S.S.I. 2016/161, S.I. 2017/1200 and S.S.I. 2018/219.

(3) S.S.I. 2020/XXX.

Regulation 31(1)(a) (contravention of regulation 4(1) (requirement to fulfil certain conditions in order to market, offer for sale or sell a scheme article))	YES	YES	YES	MEDIUM
Regulation 31(1)(b) (contravention of regulation 4(2) (requirement to fulfil certain conditions in order to market, offer for sale or sell a scheme article))	YES	YES	YES	MEDIUM
Regulation 31(1)(c) (contravention of regulation 5(2) (a) (requirement to charge a deposit when marketing, offering for sale or selling a scheme article in Scotland))	YES	YES	YES	MEDIUM
Regulation 31(1)(d) (contravention of regulation 5(2) (b) (requirement to display certain information when marketing, offering for sale or selling a scheme article))	YES	YES	YES	LOW
Regulation 31(1)(e) (contravention of regulation 5(3) (requirement to communicate certain information when marketing, offering for sale or selling a scheme article))	YES	YES	YES	LOW
Regulation 31(2) (offences in relation to knowingly or recklessly supplying of false information)	YES	YES	YES	HIGH
Regulation 31(3)(a) (contravention of regulation 9(7) (a) (failure to comply with certain obligations of a producer whose registration has been cancelled))	YES	YES	YES	LOW
Regulation 31(3)(b) (contravention of regulation 9(7) (b) (failure to comply with certain obligations of a producer whose registration has been cancelled))	YES	YES	YES	MEDIUM
Regulation 31(4) (contravention of regulation 10(1)(b) and (c) (failure to provide certain information to SEPA))	YES	YES	YES	LOW
Regulation 31(5)(a) (failure to comply with certain obligations of a directly registered producer under regulation 11(1)(a) and (b))	YES	YES	YES	LOW
Regulation 31(5)(b) (failure to comply with certain obligations of a directly registered producer under regulation 11(1)(c) to (h))	YES	YES	YES	MEDIUM
Regulation 31(6) (failure to comply with certain obligations of a producer registered through a scheme administrator)	YES	YES	YES	LOW
Regulation 31(7)(a) (failure by a scheme administrator to comply with the obligations in regulation 16(1)(a)(i))	YES	YES	YES	LOW
Regulation 31(7)(b) (failure by a scheme administrator to comply with the obligation in regulation 16(1)(a)(ii))	YES	YES	YES	MEDIUM
Regulation 31(7)(c) (failure by a scheme administrator to comply with the obligations in regulation 16(1)(b))	YES	YES	YES	LOW
Regulation 31(7)(d) (failure by a scheme administrator to comply with the obligation in regulation 16(1)(c))	YES	YES	YES	MEDIUM
Regulation 31(8)(a)(i) (failure by a retailer to comply with regulation 19(1)(b))	YES	YES	YES	MEDIUM

Regulation 31(8)(a)(ii) (failure by a retailer to comply with regulation 21(2))	YES	YES	YES	MEDIUM
Regulation 31(8)(a)(iii) (failure by a retailer to comply with regulation 22(4)(b))	YES	YES	YES	MEDIUM
Regulation 31(8)(b) (failure by a retailer to comply with regulation 19(1)(c))	YES	YES	YES	LOW
Regulation 31(8)(c) (failure by a retailer to comply with regulation 21(4))	YES	YES	YES	MEDIUM
Regulation 31(8)(d) (failure by a retailer to comply with regulation 22(4)(a))	YES	YES	YES	LOW
Regulation 31(9)(a) (failure by a return point operator to comply with regulation 20(2))	YES	YES	YES	MEDIUM
Regulation 31(9)(b) (failure by a return point operator to comply with regulation 20(3))	YES	YES	YES	LOW
Regulation 31(10) (failure by a voluntary return point operator to comply with regulation 25(8)(b))	YES	YES	YES	MEDIUM
Regulation 31(11) (obstruction of, or failure to assist an authorised person exercising enforcement powers under regulation 30(4))	YES	NO	NO	LOW
Regulation 31(12) (failure to comply with a notice under regulation 30(4)(l))	YES	YES	YES	LOW
Regulation 31(13) (purporting to act as a scheme administrator without approval under regulation 15)	YES	NO	NO	LOW

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St Andrew's House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order confers additional powers on the Scottish Environment Protection Agency (“SEPA”) to enable it to enforce the requirements of the Deposit and Return Scheme for Scotland Regulations 2020 (“the Regulations”).

It amends the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the 2015 Order”) so that, where offences are committed under the Regulations, SEPA may also exercise its powers under the 2015 Order to impose a fixed or variable monetary penalty, or to accept an enforcement undertaking.