

Lorna Slater MSP  
Minister for Green Skills, Circular Economy and Biodiversity  
The Scottish Government  
St. Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

3 February 2023

Dear Minister

**RE: DRS followup on small producers**

We are writing further to our letters dated 8 November 2022 and 8 December 2022 on the issues still facing small producers preparing for the Deposit Return Scheme (DRS). Thank you for your reply (reference 202200334483, dated 21 December 2022), however these issues are yet to be resolved. We hope that you will be able to meet with us in the near future given the urgent situation faced by our members.

The DRS is particularly challenging for small producers who lack the financial resources and capacity to meet the regulatory requirements in time. This is in no small part due to a continuing lack of clarity on how the scheme will work and what actions they need to take. These small businesses do not have teams of people that can be dedicated to the consideration, preparation and collection of information that large producers can call on nor the financial resources required.

There are now many significant decisions that small producers need to make imminently about whether to continue to sell into the Scottish market so they can register ahead of the deadline in little over three weeks' time. They still do not have the clarity to make these vital decisions. We have attached a briefing outlining the 17 stages that a small producer needs to go through to continue to sell bottles and cans in August and why they cannot meet the current deadlines. The Scottish Government's own Gateway Review found that producers needed 12-24 months to prepare once "meaningful decisions" have been reached, yet these are still not known with only a few weeks left to register.

This is why we proposed to you previously that an 18-month grace period is introduced into the revised regulations where smaller producers can have their containers treated as non-scheme articles and continue to be put on the market without deposits or producer fees being required, unless they choose to opt into the scheme. In addition, we ask you to consider allowing smaller producers, whenever they join the scheme, to use Retained EANs (REANs) once the grace period is over and that the payment terms are amended to 60 days in recognition of the severe cash flow

implications for small businesses which are already struggling economically. For those placing very small numbers of containers on the market an ongoing de-minimis of 5,000 units would allow these specialist products to continue to be available to Scottish consumers and the hospitality sector.

While we welcomed many of the changes covered in your update letter to the Net Zero, Energy and Transport Committee in December it still failed to address the real world impacts of failure to comply by any of our members. You suggest that SEPA, the regulator with support from CSL “is working on a proactive and managed approach towards compliance where there are clearly evidenced operational challenges to industry readiness to go live”. We are concerned that without a standardised, agreed and legal basis set out in Regulations there will be additional confusion in an already impossible situation. It will be very difficult for SEPA to agree different timetables for each of the thousands of small producers impacted by the scheme. Without the clarity of a legal grace period for small producers/importers and those putting small number of containers on the market the following will happen to those companies which are non-compliant at go live

- Supermarkets and other businesses will choose not to stock products produced by small brewers and other small producers
- Compliance officers within producers and importers will not agree to this action and producers and products will leave the Scottish market or cease trading
- Consumers will be faced with reduced product choice and/or increased prices at a time when food inflation is running at more than 16%

This is why your decision to reopen the regulations to address the online takeback service presents the best and perhaps final opportunity to agree and formalise an arrangement for small producers that gives them the time and the legal support they need while ensuring DRS is launched on time with the vast majority of containers included. We urge you to take this opportunity to work with us to find a workable solution for producers of lower volume, high quality products that do not form a significant part of Scotland’s litter and recycling challenge. Without action those businesses will be disproportionately impacted by the scheme’s requirements.

We request a meeting with you in the coming days to discuss an urgent solution.

Yours sincerely



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The Wines and Spirits Trade Association (WSTA)



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