

SCOTLAND'S DEPOSIT RETURN SCHEME

Information for wholesalers

Contents

What does the deposit return scheme mean for me?	2
▪ Wholesalers based in Scotland	3
▪ Wholesalers based in the rest of the UK.....	4
▪ Wholesalers selling online	4
▪ Wholesalers that also sell to consumers.....	4
How do I know what drinks are part of the scheme?	4
How do I check if a producer is registered?	5
Who decides if a drink is a scheme article?	5
Is there any flexibility on whether a drink is a scheme article?	5
Working with SEPA	6
Our regulatory approach.....	6
Example scenarios	8

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contactscotland-bsl.org

When Scotland's Deposit Return Scheme (DRS) is introduced in March 2024, the way people buy drinks and recycle their empty drink containers in Scotland will change. From 1 March 2024, when you buy a drink in a single-use container a 20p deposit will apply. This applies throughout the supply chain. You get the deposit back when the empty drink container is returned to a return point or, in the case of wholesale, when the drink is sold on to a customer.

What does the deposit return scheme mean for me?

The Deposit and Return Scheme for Scotland Regulations 2020 place obligations on businesses selling drinks in single-use containers sized between 100ml¹ and 3 litres made from PET plastic, glass, aluminium and steel, and intended for sale to consumers in Scotland. This applies to all businesses, including wholesalers, throughout the UK who form part of the retail chain for drinks that will be marketed for sale or sold to consumers in Scotland.

The Regulations define [wholesalers](#)², [retailers](#)³ and [producers](#)⁴ separately, and it is possible that your business could be defined as more than one. In all cases you will need to know what your obligations are and if the stock you sell are scheme articles (drinks included in the scheme) or non-Scottish articles (drinks that are not part of the scheme and not intended for retail sale in Scotland). Further information about scheme articles is available in our [guide to scheme articles, non-scheme articles and non-Scottish articles](#)⁵.

¹ A proposed change to the size of container in-scope of Scotland's Deposit Return Scheme (50ml changing to 100ml) was announced by the Minister for Green Skills, Circular Economy and Biodiversity on 20 April 2023. This change to the scheme is subject to regulations to amend the Deposit Return Scheme for Scotland Regulations 2020 being laid in, and approved by, the Scottish Parliament.

² <https://www.sepa.org.uk/regulations/waste/deposit-return-scheme/retailers/wholesalers/>

³ <https://www.sepa.org.uk/regulations/waste/deposit-return-scheme/retailers/>

⁴ <https://www.sepa.org.uk/regulations/waste/deposit-return-scheme/producers/>

⁵ https://www.sepa.org.uk/media/594501/220610_officialbusiness_drs_schemearicle-guidance.pdf

Defining a wholesaler

For the purposes of DRS, you are a wholesaler if you market, offer for sale or sell drinks that you have not produced or imported yourself and are not selling to consumers, but instead sell to a retailer or other business that will sell to consumers.

This includes any third-party reseller regardless of whether you operate from a warehouse or not.

As a wholesaler selling drinks in Scotland or to a customer in Scotland, you will have legal responsibilities that you must comply with. These are called obligations. Your obligations are as follows:

■ Wholesalers based in Scotland

If you are a wholesaler based in Scotland, you have the following obligations:

- you must know that the stock you sell are scheme articles, non-scheme articles or non-Scottish articles;
- you must make it clear to the customer if drinks are scheme articles or not when selling in Scotland:
 - for scheme articles, you must make it clear they are part of the scheme and the deposit applies;
 - for non-Scottish articles, you must make it clear that they are not intended for retail sale in Scotland, no deposit applies, and the empty container cannot be returned in exchange for a deposit.
- you must charge the deposit on each scheme article that you sell in Scotland.

Further information about the information that you must display at the place of sale of scheme articles, non-scheme articles and non-Scottish articles can be found on our website - [SEPA Guidance: Deposit Return Scheme deposit and labelling](#).⁶

⁶ https://www.sepa.org.uk/media/594366/220905_official_deposit_labelling.pdf

■ Wholesalers based in the rest of the UK

If you are a wholesaler based outside of Scotland that supplies customers in Scotland, you must know if any of your stock are scheme articles. If you do sell scheme articles, you must:

- inform the customer that the drink is a scheme article and part of the scheme, the deposit applies and can be redeemed on the empty container;
- charge the deposit on any scheme articles you sell.

■ Wholesalers selling online

If you are a wholesaler selling online, you must know if any of your stock are scheme articles. If you do sell scheme articles, you must:

- make it clear to the customer that the drink is a scheme article, the deposit applies and can be redeemed on the empty container;
- charge the deposit on any scheme articles you sell.

■ Wholesalers that also sell to consumers

For the purposes of DRS, if you are a wholesaler that sell drinks to consumers in Scotland, then you are also a retailer. As a retailer you will have additional obligations, including operating a return point (unless exempt⁷). If your business sells to both other businesses and consumers, then you must comply with both wholesaler and retailer obligations. Further details on retailer obligations can be found on our website: [Retailers | Scottish Environment Protection Agency \(SEPA\)](#).⁸

How do I know what drinks are part of the scheme?

Drinks that are part of the scheme are called **scheme articles**. Only scheme articles from registered producers can be sold to consumers in Scotland. Further information on scheme articles is available in our [guide to scheme articles, non-scheme articles and non-Scottish articles](#).

⁷ Retailers can apply for an exemption from acting as a return point. To find out more about exemptions please visit the Zero Waste Scotland website: <https://depositreturnscheme.zerowastescotland.org.uk/applications>

⁸ <https://www.sepa.org.uk/regulations/waste/deposit-return-scheme/retailers/>

How do I check if a producer is registered?

SEPA will publish a register of all producers who are registered to market and sell drinks in Scotland. This will provide live information so you will be able to check that the stock you buy for sale to Scotland is from producers that are registered to be part of the scheme. The register will be available on the SEPA website before the scheme goes live.

Who decides if a drink is a scheme article?

It is a producer's responsibility to determine if the products they make and sell are scheme articles, and part of Scotland's Deposit Return Scheme. Producers should make this clear to wholesalers, retailers and consumers when selling or marketing their products.

As a wholesaler, it is your responsibility to know if the stock you are selling is a scheme article or a non-Scottish article (not part of the scheme and not intended for retail sale in Scotland). It is also your responsibility to make this clear to your customers, so they know if products are part of the scheme or not.

Is there any flexibility on whether a drink is a scheme article?

We understand that a product's route to market is not always known at the point of first sale by the producer.

In recognition of this, SEPA accepts that a producer may need to agree with a wholesaler if and when non-Scottish articles can be sold as scheme articles. Where this happens, deposits would be charged retrospectively to the wholesaler and an adjustment process carried out so that the producer has an accurate record of products placed on the market in Scotland.

The wholesaler and producer must agree the number of scheme articles supplied and arrange to pay any additional deposits due. Establishing a process to confirm sales numbers and paying the deposits in a timely manner will allow producers and wholesalers more flexibility in meeting their legal obligations and accurately report on the number of scheme articles placed on the market.

In all cases, producers, wholesalers and retailers will need to make it clear whether products are scheme articles or not when marketing, offering for sale or selling drinks in Scotland.

Working with SEPA

We recognise and understand that some businesses may have concerns about the operational challenges of preparing for Scotland's Deposit Return Scheme. However, it is important you know and understand your obligations, and are taking action to get ready for the scheme going live in March 2024.

We are committed to providing advice and guidance as the preferred route of achieving compliance for businesses that are trying do the right thing and comply with their new obligations. Further information and guidance is available on our website (www.sepa.org.uk/DRS), and we would encourage any business that has concerns about their obligations to [get in touch with SEPA](#)⁹.

We will continue to support wholesalers and retailers where needed, now and after the scheme goes live to ensure that:

- compliant businesses and DRS champions are recognised for their good practice;
- SEPA continues 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.

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.

The DRS Regulations give SEPA the power to investigate suspected non-compliances and take enforcement action where necessary.

If SEPA becomes aware of any non-compliance with the Regulations, including failing to identify non-Scottish articles when selling in Scotland, we will investigate. Regardless of whether you have a registered or principal office in Scotland, you could still commit an offence if you do not meet your obligations.

⁹ <https://www2.sepa.org.uk/contactus>

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

For more serious non-compliance or illegal activity, SEPA can choose from a range of enforcement tools, which include financial penalties or even a referral for prosecution. This will be dependent on the scope, scale and intent of the non-compliance, and the outcome we want to achieve by our action.

Further guidance on our approach to regulation and enforcement policy is available in [SEPA's approach to regulation](#)¹⁰.

¹⁰ https://www.sepa.org.uk/media/594665/230315_official_sepa_drs_regulatory_approach.pdf

Example scenarios

Scenario 1

Situation:



Wholesaler:

- supplies to whole of UK
- buys 2,000 drinks from producer – 1,000 scheme articles (deposit paid), 1,000 non-Scottish articles (no deposit paid)
- **has prior agreement with producer** that can convert non-Scottish articles to scheme articles by applying the deposit, letting the producer know how many drinks have been converted and paying the producer the additional deposits.



Retailer:

- buying stock for shop in Scotland
- wants to buy 1,200 drinks

Action:



Action taken by wholesaler:

- 1,000 drinks from scheme article stock sold to retailer
- as per agreement with producer, the wholesaler sells additional 200 drinks from non-Scottish article stock to retailer as scheme articles, and notifies the producer who charges the deposit to the wholesaler
- pays producer extra 200 deposits as agreed with the producer



This means the producer:

- has been reimbursed for the deposit on the additional drinks sold as scheme articles
- has funds available to refund the customer the deposit when the empty container is returned
- can report accurate data about what they placed on the market for sale in Scotland

Is this compliant with DRS Regulations?



Yes, SEPA would consider that all parties have complied with their obligations.

Scenario 2

Situation:



Wholesaler:

- buys 1,000 non-Scottish articles (no deposit paid) from producer
 - markets as scheme articles/fails to declare them as non-Scottish articles
-

Action:



Action taken by wholesaler:

- sells drinks as scheme articles
- charges retailer deposit on each drink sold
- tells the producer after the drinks have been sold that they were sold as scheme articles and the deposit was applied but had **no prior agreement with the producer** to do so



This means the producer:

- has not agreed to sell these drinks as scheme articles
- will potentially not have funds available to refund the customer the deposit when the empty container is returned
- cannot accurately report data about what they placed on the market for sale in Scotland



This means the retailer:

- could be selling non-Scottish articles to consumers in Scotland without realising
-

Is this compliant with DRS Regulations?



No. SEPA would consider the wholesaler to be non-compliant and to have committed an offence.

The wholesaler could also be considered to be responsible for the retailer committing an offence if the retailer then sells the non-Scottish articles to consumers in Scotland. A wholesaler can only convert a product to a scheme article with the prior agreement of the producer.

Scenario 3

Situation:



Wholesaler:

- wholesaler buys 1,000 scheme articles (deposit paid) per month
- sells most of the stock to customers in Scotland but about 5% is sold online to customers in the rest of the UK
- **has prior agreement with producer** that can convert scheme articles to non-Scottish articles for sale to customers in rest of the UK

Action:



Action taken by wholesaler:

- at end of each month uses sales data to report to producer how many drinks were sold with the deposit (as scheme articles) and how many without (as non-Scottish articles)



This means the producer:

- could offer a refund of the deposits for the drinks sold without the deposit to customers in the rest of the UK
- can update and accurately report data about what they placed on the market for sale in Scotland

Is this compliant with DRS Regulations?



Yes, SEPA would consider this compliant if:

- it was clear to all parties if the drinks are scheme articles, and a deposit was being applied
 - if this approach had been agreed with the producer in advance of the wholesaler selling the drinks
-

Scenario 4

Situation:



Wholesaler:

- supplies to whole of UK
- buys 2,000 drinks from producer – 1,000 scheme articles (deposit paid), 1,000 non-Scottish articles (no deposit paid)
- **does not have prior agreement with the producer** to convert non-Scottish articles to scheme articles



Retailer:

- buying stock for shop in Scotland
 - wants to buy 1,500 drinks
-

Action:



Action taken by wholesaler:

- 1,000 drinks from scheme article stock sold to retailer
- approaches producer to gain agreement that 500 drinks from the non-Scottish article stock can be converted to scheme articles, the deposit would be charged to the retailer and the wholesaler would pay the producer the extra 500 deposits



The producer has two options:

- **Agree** to the wholesaler converting non-Scottish articles to scheme articles, reconcile the payment of the deposits with the wholesaler and update their data about what they placed on the market for sale in Scotland.
 - **Do not agree** to the wholesaler converting non-Scottish articles to scheme articles. In this case, the wholesaler will either need to buy an additional 500 scheme articles from the producer or inform their customer they only have 1,000 scheme articles in stock and cannot fulfil the whole order.
-

Is this compliant with DRS Regulations?



Yes, SEPA would consider that all parties have complied with their obligations. However, if the wholesaler was to fulfil the whole order with a mixture of scheme articles and non-Scottish articles and did not inform the customer of the status of the drinks, then they would be committing an offence and could face enforcement action.

Scenario 5

Situation:



Wholesaler A:

- based in England and supplies to whole of UK
- buys 2,000 non-Scottish articles (no deposit paid) from a registered producer
- **does not have prior agreement with the producer** to convert non-Scottish articles to scheme articles



Wholesaler B:

- buying stock for resale in Scotland
 - wants to buy 2,000 scheme articles from Wholesaler A
-

Action:



Action taken by Wholesaler A:

- approaches producer to gain agreement that the 2,000 non-Scottish articles can be converted to scheme articles, the deposit would be charged to Wholesaler B and Wholesaler A would pay the producer the 2,000 deposits.



The producer has two options:

- **Agree** to Wholesaler A converting the non-Scottish articles to scheme articles, reconcile the payment of the deposits with the wholesaler and update their data about what they placed on the market for sale in Scotland.
 - **Do not agree** to the Wholesaler A converting non-Scottish articles to scheme articles. In this case, the wholesaler will either need to buy scheme articles from the producer or inform their customer they cannot supply scheme articles.
-

Is this compliant with DRS Regulations?



Yes, SEPA would consider that all parties have complied with their obligations.

Scenario 6

Situation:



Wholesaler:

- Based in England and supplies to whole of UK
- buys 2,000 non-Scottish articles (no deposit paid) from another wholesaler
- **does not have prior agreement with the producer** to convert non-Scottish articles to scheme articles



Retailer:

- buying stock for sale to consumers in Scotland
 - wants to buy 1,000 drinks
-

Action:



Action taken by wholesaler:

- approaches producer to gain agreement that 1,000 drinks from the non-Scottish article stock can be converted to scheme articles, the deposit would be charged to the retailer and the wholesaler would pay the producer the 1,000 deposits



The producer:

- **Does not agree** to the wholesaler converting non-Scottish articles to scheme articles. In this case, the wholesaler will either need to buy 1,000 scheme articles from the producer or inform their customer they only have non-scheme articles in stock and cannot meet their requirements.



The wholesaler would then:

- inform the retailer that they are unable to sell them scheme articles. The retailer may still purchase the non-Scottish articles but should be made aware that selling them to a consumer in Scotland would be an offence.
-

Is this compliant with DRS Regulations?



Yes, SEPA would consider that all parties have complied with their obligations. The wholesaler has informed the retailer of the status of their stock. If the retailer decided to buy 1,000 non-Scottish articles they could do so, but it would be an offence to sell them to a consumer in Scotland.
