

Government Response: *The Deposit Scheme for Drinks Containers (Wales) Regulations 2026* (“the Regulations”)

Technical Scrutiny point 1: The text in the Explanatory Memorandum on the duty on the DMO to make arrangements to reuse drinks containers that are capable of reuse, coming into force on 1 October 2031 is incorrect. It should state 1 October 2030 in accordance with the date in regulation 1(4) of the Regulations. The Welsh Government will withdraw and re-lay the Explanatory Memorandum with the correct date.

Technical Scrutiny point 2: The Welsh Government accepts the reporting point and will seek to amend regulation 7 in the Welsh text prior to the making of the Regulations as set out in the table below.

Technical Scrutiny point 3: The Welsh Government confirms that the use of “connected goods and services” under the definition of “means of distance communication” is intended to have the same meaning as the defined term “connected goods or services”. The term “connected goods and services” only appears once in error in the regulations under the definition of “means of distance communication”. The Welsh Government will therefore seek to amend the definition of “means of distance communication” under regulation 9 prior to the making of the Regulations as set out in the table below.

Technical Scrutiny point 4: A “business day” for the purposes of regulation 9(10) is intended to have the same meaning as “working day” under the Legislation (Wales) Act 2019. In other words, it is intended to mean any day which is not a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971. In order to aid clarity, this will be considered for amendment at the next available opportunity.

Technical Scrutiny point 5: It is the Welsh Government’s view that “a bennir” is a variation of the term “penodedig” since the definition of the term “penodedig” under regulations 15(6) and 31(6) both include “wedi ei bennu” which is the past tense form of “specified” and more akin to the “a bennir” used in regulations 15 and 31 themselves. As such it is Welsh Government’s view that section 9 of the Legislation (Wales) Act 2019 would apply here. Section 9 of that Act provides that “other parts of speech and grammatical forms or variations” of a defined term are to be interpreted in accordance with the definition and has effect unless express provision is made to the contrary or the context requires otherwise. Therefore, the Welsh Government do not consider that the use of “a bennir” here would cause any confusion to the reader and no amendment is required to address this reporting point.

Technical Scrutiny point 6: We agree that it would have been more appropriate for “nodi” to have been used for “state the date”, as “pennu” is generally translated as “specify” and specifically translated as “specify” in these Regulations. However, in the context where this inconsistency appears, it is the Welsh

Government's view that the inconsistency has minimal effect. If the English text said: "specify the date on which it takes effect," (rather than "state the date"), there would be no difference in the end result. For the purposes of clarity and consistency the Welsh Government will seek to amend regulation 32(2)(b) and (4)(b) of the Welsh text prior to the making of the Regulations as set out in the table below.

Technical Scrutiny point 7: The intention is that the requirements in regulation 61(2) will also apply to revisions of the amount of the deposit under regulation 62(1). The Welsh Government considers that this would also likely be the legal effect. However, to aid clarity, the Welsh Government will consider including explicit provision to that effect at the next available opportunity.

Technical Scrutiny point 8: The Welsh Government is satisfied that the references in regulation 86(6)(a) and (c) and 86(7) operate as intended. However, to aid clarity, the Welsh Government will consider adding clarificatory text to aid the reader at the next available opportunity.

Technical Scrutiny point 9: The Welsh Government accepts the reporting point and will seek to amend the parenthetical references to the Welsh language definitions for the definitions of "the applied enforcement powers" and "the EA 1995" under regulation 86(7) of the English text prior to the making of the Regulations as set out in the table below.

Technical Scrutiny point 10: A person may make an appeal under regulation 93 in relation to the amount specified in an enforcement cost recovery notice under regulation 93(3). Appeals under paragraph (6) are made to the First-tier Tribunal, pursuant to regulation 99(1)(c). A person might choose to make such an appeal in circumstances where they consider that any costs set out in the notice are unnecessarily incurred. Whether costs are in fact unnecessarily incurred would be determined by the First-tier Tribunal on the basis of evidence provided (i.e. that which is "shown" under paragraph (5)) by the appellant – who may require the enforcement authority to provide a detailed breakdown of costs under paragraph (4) – and the enforcement authority.

Technical Scrutiny point 11: The Welsh Government accepts the reporting point and will seek to amend paragraph 3(4) and (5) of Schedule 3 of the English text prior to the making of the Regulations as set out in the table below.

Technical Scrutiny point 12: The Welsh Government accepts the reporting point and will seek to amend paragraph 11(3) of Schedule 4 of the Welsh text prior to the making of the Regulations as set out in the table below.

Technical Scrutiny point 13: The Welsh Ministers may appoint a Deposit Management Organisation ("DMO") applicant under paragraph 2(2) of Schedule 5 if they are satisfied about certain matters regarding its corporate constitution, and its suitability having regard to the matters specified in paragraph (c)(i) to (vii). Applications must necessarily deal with such matters in order for the Welsh Ministers to have regard

to them, which consequently dictates the form of applications that the Welsh Ministers may invite. Other matters such as the timescales for inviting and considering applications are matters which can be suitably determined by the Welsh Ministers. The Welsh Government therefore consider any further provision about the appointment of the DMO, over and above that already made for in Schedule 5, would be unnecessary and overly-prescriptive.

Technical Scrutiny point 14: Paragraph (5) is the paragraph in regulation 28 which is equivalent to paragraph (6) in regulation 27. Regulation 27(6) is correctly included in the table of civil sanctions, and the Welsh Government will consider including, by amendment, reference to its equivalent provision (regulation 28(5)) at the next available opportunity.

Technical Scrutiny point 15: A failure to comply with a compliance notice or an enforcement undertaking would be an offence under regulation 89(1). The imposition of a variable monetary penalty as an alternative to prosecution should also be available, and therefore the Welsh Government will consider including such provision, by amendment, at the next available opportunity.

Merits Scrutiny point 16: The Welsh Government welcomes the Committee's interest in the UK Internal Market Act (UKIMA) exclusion process. The latest position is that set out in the Written Statement (issued 12 February 2026), and we continue to work to progress matters. We can confirm that as per the Written Statement, all the other governments in the UK have agreed to an exclusion being brought forward for the Deposit Return Scheme (DRS) in Wales. As your report references, the UK Government have offered a conditional exclusion for single use glass bottles for the Welsh Deposit Return Scheme (DRS). This provides the exclusion needed to bring forward the regulations to establish the scheme. This agreement follows extensive engagement by the Welsh Government through the Resources and Waste Common Framework.

The next step for the UKIMA exclusion will see the UK Government bring forward the required statutory instrument and they have committed to doing so at the earliest opportunity. The UK Government has advised that it expects to lay the exclusion legislation during 2026, and we are actively engaging with DEFRA to support them to bring forward the legislation as soon as possible.

Merits Scrutiny point 17: In line with the Welsh Government's Beyond Recycling circular economy strategy and longstanding policy approach, a DRS has been developed to support Wales's transition to a circular economy. As set out in previous written statements, as well as being a critical component of a circular economy, reuse is a core element of the scheme as it is central to the ability of a DRS to deliver benefits for Wales against our already high recycling rates for in scope materials. In establishing the scheme, the provisions therefore clearly set out that reuse is a key purpose.

Whilst the detailed provisions for the full roll out of reuse will follow in a subsequent statutory instrument, the Regulations make provision for the initial introduction of reuse in line with the phased approach consulted upon. This will support the piloting of reuse at scale which industry have stressed as essential in order to inform its subsequent roll-out. This approach therefore provides clarity in relation to the long-term direction and initial phasing in of reuse as a central component of the scheme. The detailed provisions for the roll out of reuse within the subsequent statutory instrument will be informed by the outcomes of the 2025 DRS consultation.

Merits Scrutiny point 18: A series of targeted engagement sessions took place between January and December 2025 with approximately 250 attendees across 16 sessions, with stakeholders representing producers, retailers, local authorities, environmental NGOs, waste sector representatives and reuse organisations. While these sessions were informal, the evidence gathered played a key role in shaping the scheme's design and informed the development of these Regulations. This has helped to ensure that the regulatory framework developed has been directly informed by stakeholder engagement and practical considerations raised through our consultation process.

The 2025 consultation, which in particular focused on the phased approach to reuse, closed on 18 November 2025. A consultation summary report is currently being finalised and will be published on the Welsh Government website in due course. We will provide the Committee with links to the report and associated materials as soon as it is published.

Merits Scrutiny point 19:

a) Use of 2021 assessment

The Regulatory Impact Assessment (RIA) accompanying these Regulations begins by presenting the long list of policy options assessed in the joint 2021 Impact Assessment for Wales, England and Northern Ireland. The results of the 2021 Impact Assessment informed the preferred policy approach and have been included in the RIA so that it links directly to that underpinning rationale. However, the rest of the RIA for Wales is a new Welsh-specific impact assessment.

b) Welsh-specific impact assessment

The 2026 RIA is a Welsh-specific impact assessment in which the preferred policy option (as encapsulated in these Regulations) is assessed in the Welsh context. Whilst it builds upon the research base established through previous four-nations activities, including the previous impact assessments, the policy being assessed and the context of the assessment is specific to Wales.

Where appropriate, the approach, data and assumptions have been updated to reflect the Welsh context. Specifically, the RIA assesses the Welsh DRS policy which includes glass (with provision of a transition period), reuse, and flexibility to provide

hybrid collections by working with local authorities. It assesses the DRS policy against current Welsh recycling rates, noting that local authority recycling rates are particularly high compared to the rest of the UK, alongside the future policy environment in Wales, glass capture rates and reuse potential. This approach ensures that the assessment is both proportionate and reflective of the features of the Welsh scheme.

Future amendments to introduce detailed reuse provisions will be accompanied by further Wales specific impact assessment where appropriate.

Technical drafting corrections to be made prior to the making of the Regulations

CORRECTIONS MADE TO THE WELSH TEXT PRIOR TO MAKING	CORRECTIONS MADE TO THE ENGLISH TEXT PRIOR TO MAKING
Rheoliadau Cynllun Ernes ar gyfer Cynwysyddion Diodydd (Cymru) 2026	The Deposit Scheme for Drinks Containers (Wales) Regulations 2026
In regulation 7 delete (1) from regulation 7.	
In regulation 9(1), in the definition of “cyfrwng cyfathrebu o hirbell”, “nwyddau a gwasanaethau cysylltiedig” will be replaced with “nwyddau neu wasanaethau cysylltiedig”.	In regulation 9(1), in the definition of “means of distance communication”, “connected goods and services” will be replaced with “connected goods or services”.
In regulation 32(2)(b), “pennu’r dyddiad” will be replaced with “nodi’r dyddiad”.	
In regulations 32(4)(b), “pennu’r dyddiad” will be replaced with “nodi’r dyddiad”.	
	In regulation 86(7), (“the applied enforcement powers”) will be replaced with (“y pwerau gorfodi cymhwysol”) and (“the EA 1995”) will be replaced with (“DA 1995”).
	In paragraph 3(4) of Schedule 3, “paragraph (3)(b)(ii)” will be replaced with “sub-paragraph (3)(b)(ii)”.
	In paragraph 3(5) of Schedule 3, “paragraph (3)(b)(iii)” will be replaced with “sub-paragraph (3)(b)(iii)”.
In paragraph 11(3) of Schedule 4, “is-baragraff (1)(a)” will be replaced with “is-baragraff (1)(b)”.	
Minor issues such as formatting, minor changes to the explanatory note and footnotes and correcting typographical errors will also be corrected prior to making.	