

<p>Draft name Draft Act amending the Act on Packaging Management and Packaging Waste and Certain Other Acts</p> <p>Lead ministry and cooperating ministries Ministry of Climate and Environment</p> <p>Person responsible for the draft at the level of Minister, Secretary of State or Undersecretary of State Jacek Ozdoba, Secretary of State</p> <p>Contact details for the draft supervisor Robert Chciuk – Director of the Waste Management Department, e-mail: robert.chciuk@klimat.gov.pl, ph. + 48 22 36 92 262, Coordinator Tomasz Zaliwski – Senior Specialist, Waste Management Department, e-mail: tomasz.zaliwski@klimat.gov.pl ph.: +48 22 36 92840 Michał Ambroziewicz – Senior Specialist, Waste Management Department, e-mail: michal.ambroziewicz@klimat.gov.pl ph.: +48 22 36 92411</p>	<p>Date of preparation 24 April 2023</p> <p>Source: Directive (EU) 2019/904 Article 9 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ EU L 155, 12.6.2019, p. 1)</p> <p>No. in the list of works of the RM: UC98</p>
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REGULATORY IMPACT ASSESSMENT

1. What issue is being addressed?

On 12 June 2019, Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the effects of certain plastic products on the environment, hereinafter referred to as ‘the SUP Directive’, was published in the Official Journal of the European Union.

Article 9 of the SUP Directive contains an obligation to ensure segregated collection of packaging waste resulting from single-use plastic bottles for beverages up to three litres with their caps and lids at a level of 77 % in 2025 and 90 % in 2029.

In addition, in Poland some glass packaging (mainly beer bottles) is covered by a deposit system, which is not regulated by law and was created by manufacturers in beverage packaging on a voluntary basis. However, it should be noted that the return of such packaging by consumers is challenging. Not all stores accept such packaging, and customers are often confused, which frequently results in a bottle, which could be returned, being disposed into a waste container. In addition, it should be noted that when glass bottles are thrown into the bulk container, they are destroyed and are therefore not suitable for reuse. In addition, the deposit system shall cover glass packaging of all beverages with a capacity of up to one and a half litres, as opposed to the current system which only applies to beer bottles. In order to ensure efficiency, it is important that the system covers a wide range of packaging types. It should be noted that glass packaging for beverages rarely exceeds the capacity of one and a half litres. Therefore, according to the evaluation of the Ministry of Climate and the Environment, reusable glass bottles for beverages up to one and a half litres capacity should be covered by the deposit system. This is the capacity that shall allow the deposit system to cover most of the introduced products in this type of packaging. In addition, it should be remembered that metal cans make up about 30 % of beverage packaging on the Polish market. The inclusion of this type of deposit system for packaging shall not only increase the levels of collection and recycling of metal packaging waste achieved, but shall also economically benefit the deposit system introduced and increase convenience for consumers. By incorporating metal cans into the deposit system, waste from packaging, which today most often litter public areas, shall be collected and recycled. Furthermore, including both aluminium and steel cans in the deposit system shall not cause confusion to consumers as to whether the packaging of a given product is covered by a deposit scheme or not, and thus whether the deposit shall be paid or retained. In addition, this shall allow producers to substitute between these two metals in the event of difficulties in the availability of raw materials or increases in prices for a given alloy.

The draft addresses the problem of the lack of a mechanism in the current legal system to achieve high levels of segregated collection of single-use plastic bottles for beverages up to three litres, as referred to in Article 9 of the SUP

Directive. In accordance with Article 9(1), third subparagraph, letter (a) of that directive a deposit scheme may be such a mechanism. In addition, the problem of littering public spaces with certain types of packaging waste shall be addressed and a clear framework for the functioning of deposit systems shall be created, which shall eliminate confusion and increase convenience.

The deposit system shall cover plastic packaging of beverages up to three litres, reusable glass packaging after beverages up to one and a half litres and metal cans up to one litre.

However, it is not possible to provide precise data on the amount of waste generated in the form of plastic beverage packaging with a capacity of up to three litres, glass packaging after beverages up to one and a half litres and metal cans up to one litre. Nevertheless, according to data for 2018, the following were introduced to the market: 1,192 thousand Mg of glass packaging, of which 738 thousand Mg (nearly 62 %) was recycled, 985 thousand Mg of plastic packaging, of which 346 thousand Mg was recycled (about 35 %), nearly 92 thousand Mg of aluminium packaging, of which 48 thousand Mg was recycled (52.5 %) and nearly 154 thousand Mg of steel packaging, including steel sheet, of which 137 thousand Mg was recycled (89.1 %).

2. The recommended solution, including planned intervention tools and expected impact

In order to ensure high levels of segregated collection of packaging waste resulting from single-use plastic bottles for beverages up to three litres, as referred to in Article 9 of the SUP Directive (77 % in 2025 and 90 % in 2029), implementing a deposit system is recommended. The draft law shall specify the requirements for the establishment and operation of a deposit system by entrepreneurs, which shall support the segregated collection of packaging.

In addition to the provisions implementing Article 9 of the SUP Directive, the draft law also proposes the creation of a deposit system for glass packaging for reusable beverages with a capacity of up to one and a half litres and metal cans with a capacity of up to one litre. Currently, there are deposit systems covering glass packaging, mainly reusable, created, among others, by breweries. In addition to enabling the implementation of obligations under the SUP Directive, the deposit system is also intended to be an element of support for the extended producer responsibility scheme and an element of the circular economy.

The deposit system should be understood as a system in which, when selling products in beverage packaging, a fee is charged, which is refunded at the time of return of the packaging or packaging waste without the need to present a receipt confirming that the deposit has been paid in advance. The unclaimed deposit shall be used to finance the deposit system. Introduced products in beverage packaging, under the deposit system, shall be obliged to finance at least:

- 1) Segregated collection of packaging and packaging waste to achieve the required collection rates of packaging and packaging waste;
- 2) receiving packaging and packaging waste from retail and wholesale units and other collection points for packaging and packaging waste covered by the deposit system;
- 3) transport of packaging for products introduced in beverage packaging or products in beverage packaging and packaging waste directly introduced to a processing plant;
- 4) keeping records and preparing reports;
- 5) settlement of deposit with retail and wholesale units and other collection points for packaging and packaging waste covered by a deposit scheme, in particular the financing of deposit payments to end-users;
- 6) the financing of the costs of the collection of packaging and packaging waste by the entrepreneur operating the retail and wholesale unit and another collection point for packaging and packaging waste covered by the deposit scheme.

The above-mentioned activities shall be provided by the entity in charge of the management of the system, hereinafter referred to as the “representative entity”, which shall operate the deposit system. Those introducing products in beverage packaging and introducing products directly in beverage packaging participating in the deposit scheme shall reimburse the costs arising from these activities, in accordance with the extended producer responsibility principle.

Within the draft act shall be specified the conditions that must be met by deposit systems. This shall include the universality of the system, non-discriminatory nature and the absence of an obligation to have a receipt in order to recover the deposit previously paid.

A deposit system shall be created by introducing products in beverage packaging and introducing directly products in packaging for beverages covered by the deposit system. Those introducing products in beverage packaging and introducing directly products in beverage packaging shall be represented by a representative entity. The choice of this entity shall be one of those introducing products in beverage packaging, who shall create the system. The deposit system may be activated once it has been authorised by the Minister responsible for climate affairs to operate it by means of a decision. On the other hand, a representative entity is obliged to submit an application for the authorisation to operate a deposit system a minimum of 6 months before the planned start-up of the system. Given the need for operators to achieve levels of segregated collection of packaging and packaging waste from 2025 onwards as part of the deposit system, this shall in practice mean that the representative entity shall have to submit an application by the end of June 2024. If the deposit scheme is authorised at a later date, there is a risk that in a given year there shall not be collected an adequate amount of waste and that the operators shall be obliged to calculate and pay the product fee due to the failure to achieve the above levels of segregated collection. It should be further clarified that applications for the authorisation to operate a deposit system shall not be sent via the Product and Packaging Database and Waste Management (BDO). However, the form has not been defined – it can be both paper and electronic form in the case of a qualified signature.

It should be kept in mind, however, that the draft legislation in the event that the introducer of products in beverage packaging fails to achieve and introduces directly products in packaging for beverages which are in a deposit system presupposes the need to pay a product fee by those introducing products and a representative entity operating a deposit system of 50 % each. The purpose of this mechanism is to motivate the representative to take action to achieve high levels of separate collection of packaging covered by the deposit system. In addition, for the calculation and payment of the product fee, all those introducing products in packaging for beverages covered by a deposit scheme who do not join such a scheme shall be required, as these levels can only be obtained under the system. Bottles of beverages covered by the deposit scheme, which shall be collected outside the scheme under the municipal system, shall not be counted towards the levels of segregated collection. This is a mechanism that aims to encourage entrepreneurs to set up a deposit system. Therefore, the product fee is, in a way, a sanctioning nature.

The draft also introduces provisions that define the conditions for counting the mass of packaging and packaging waste as collected packaging and packaging waste selectively. The provisions were created on the basis of Commission Implementing Decision (EU) 2021/1752 of 1 October 2021 laying down rules for the application of Directive (EU) 2019/904 of the European Parliament and of the Council (OJ EU L 349, 4.10.2021, p.19) For the calculation, verification and reporting of data on the separate collection of single-use plastic beverage bottles. According to the regulations, the weight of waste resulting from packaging in the form of plastic bottles with a capacity of up to 3 litres also includes the weight of their caps and lids. The mass of packaging and packaging waste collected under the deposit system does not include any residues, including the mass of other materials and substances present inside and outside the packaging or packaging waste. To the weight of these packaging and packaging waste can in turn include the weight of labels and adhesives, but only if it is also included in the weight of packaging placed on the market.

In addition, in order to safeguard the interests of those who join the deposit scheme, the draft specifies the conditions to be met by the representative entity. It should carry out its activities in the form of a joint-stock company established in the territory of the country, and the shareholders should only be introducing products in beverage packaging and introducing directly products in beverage packaging. In addition, the representative entity is obliged to allocate the revenue generated for statutory purposes. *De facto* shall be an entity that shall operate in the *not for profit* form. It should also be noted that the representative entity shall be obliged to hold share capital in the amount of PLN 5 million and maintain equity in the amount of at least half of the share capital or hold a specific insurance guarantee.

The draft legislation leaves a lot of freedom for entrepreneurs to create a deposit system without imposing rules on financial flows. The draft legislation also does not specify how to organise a system for collecting packaging and packaging waste. Therefore, it is up to the entrepreneurs who create the system to choose the best and least costly solutions to ensure that the target for the collection of packaging and packaging waste is achieved. It is therefore not possible to determine the operating costs of the system, which depend on the model adopted by the entrepreneurs.

The provisions of the proposed act shall determine the maximum amount of the deposit, and the target amount for each type of packaging shall be indicated in a regulation issued by the minister responsible for climate in agreement with the

minister responsible for the economy. Therefore, the amount of the deposit for a given type of packaging covered by the deposit scheme, irrespective of the one in which the introducer shall participate, in the case of two or more deposit schemes, shall be the same. Such action is intended to exclude confusion among consumers, in particular in the case of the simultaneous operation of several deposit schemes in the country.

The representative entity introducing products in beverage packaging and directly introducing products in beverage packaging participating in the system shall submit an annual report on the functioning of the deposit system via an individual BDO account. It shall include, inter alia, information on:

- 1) the amount of funds allocated to the operation of the deposit system;
- 2) the amount of the deposit collected, returned and not received;
- 3) the weight of packaging and packaging waste collected separately under the deposit system.

In addition, those who do not participate in the deposit scheme shall be obliged, as part of the report on products, packaging and waste management, to provide, through the BDO system, information on the weight of the packaging in which the beverages were placed on the market, broken down by type of packaging covered by the deposit system. The same report shall be submitted by a representative entity on behalf of each party participating in the deposit scheme.

Therefore, the reporting of introducing products in beverage packaging shall fall within the framework of an already existing administrative obligation. On the other hand, the tasks resulting from the draft related to BDO are carried out on the basis of the Waste Act of 14 December 2012 (Journal of Laws of 2022, item 699, as amended). It should be added that Article 251(3) of the Waste Act of 14 December 2012 indicates the amounts provided for, inter alia, for the expansion of the BDO system. In view of the above, there is no need to indicate the costs in this regard.

The draft also regulates the ownership of waste and packaging collected under the deposit system. Property rights of waste generated from packaging covered by the deposit system is entitled to the representative entity. On the other hand, those introducing products in beverage packaging or introducing directly products in beverage packaging, participating in a given deposit scheme, have the right to own glass packaging covered by the deposit system collected in that deposit scheme, to the extent that they were beverage products introduced by the entrepreneur. In addition, due to the possibility of signing an agreement by retail and wholesale trade units with a sales area of not more than 200 m² with at least one representative entity, an obligation has been introduced for the representative entities to establish among themselves the conditions for settlement of the deposit collected and returned and the settlement and replacement of packaging or packaging waste collected under their deposit system. These conditions should indicate an agreement that the representative entities shall be required to hand over to the minister responsible for climate affairs. If, after the conclusion of the contract, the entities representing the authorisation to operate the deposit system receive another entity, the entities that have previously operated the deposit systems shall have to communicate with the newly created representative entity in a similar way, i.e. by entering into an appropriate contract. Such agreements (including annexes or amendments to existing agreements) shall also have to be forwarded to the minister responsible for climate affairs.

However, it should be remembered that the draft separates groups that directly introduce products in beverage packaging. This refers to entrepreneurs who carry out an economic activity of placing on the market reusable glass bottles of up to one and a half litres for beverages, making only direct sales. These sales consist of the supply of beverages in packaging by those who introduces directly the beverage packaging to a place fixed between the latter and the purchaser and, at the same time, the latter receives packaging after products of the same type.

Those who directly introduce products in beverage packaging shall be exempted from the obligation to achieve a level of segregated collection in the deposit system. Such a sales system is based on the supply of beverages in reusable glass bottles, which, after emptying, are picked-up at the next delivery. Returned packaging is delivered directly to the production plant. Based on data from the records kept, such entities indicate that their system allows to ensure more than 99 % of the level of collection of glass packaging they enter annually. Nevertheless, they shall be able to join the deposit scheme on a voluntary basis. In addition, in the event of failure to join a deposit system introducing reusable glass bottled beverages up to one and a half litres carrying out direct sales to consumers, they shall be required to keep records of the packaging in which they placed the beverages on the market, including their weight, number and volume. Those who directly introduce products in beverage packaging shall also be required to achieve specific levels of segregated collection of packaging and packaging waste in 2025 and in the following years. However, they shall be able to do this outside the

deposit system, e.g. as part of their own collection.

The proposed rules oblige each retail and wholesale unit with a sales area of more than 200 m², where products in packaging covered by the deposit-refund system are offered to users to collect empty packaging and packaging waste arising from packaging covered by the deposit system and to return the deposit. These are large enough areas that they allow the storage of collected packaging without any challenges. Smaller commercial units may collect this packaging and, at the same time, repay the deposit on a voluntary basis. All commercial entities offering beverages in packaging for beverages covered by the deposit system shall be required to collect a deposit. It should be added that under the deposit scheme, those operating a retail or wholesale unit shall be obliged to sign a contract with the representative entity. Retail and wholesale units with a sales area above 200 m² shall be required to sign a contract with each representative entity. However, this entity shall have to report to the given unit. In turn, smaller entities shall be obliged to enter a contract with at least one representative entity. This bill does not introduce reporting obligations for commercial entities. However, it obliges these units and other packaging and packaging waste collecting points participating in the deposit scheme for at least the collection and return of deposit and the collection of empty packaging and packaging waste to keep records of:

- 1) the number of beverage products purchased and sold in packaging for beverages covered by the deposit scheme;
- 2) the number of packaging and packaging waste returned by consumers;
- 3) the amount of deposits collected, refunded and non-refunded.

On the other hand, an entrepreneur operating a retail or wholesale unit or another point collecting packaging and packaging waste covered by a deposit scheme participating in the deposit scheme only for the collection of deposit shall be obliged to keep records of the number of drinks purchased and sold in packages subject to the deposit scheme.

In addition, entrepreneurs operating a retail or wholesale unit or other point collecting packaging and packaging waste participating in the deposit scheme for at least the collection of the deposit shall be obliged to place, in a prominent place, information on the conditions and procedure for returning empty packaging and packaging waste under the deposit scheme and the possibility of returning the deposit collected.

The representative entity shall be obliged to settle the deposit with retail and wholesale trade units and other points collecting packaging and packaging waste covered by the deposit scheme, in particular to finance deposit payments to users. This settlement must take place at least on a monthly basis. In addition, the representative entity is obliged to finance the costs of collecting packaging and packaging waste by the trader operating the trading unit and other packaging and packaging waste collection points covered by the deposit scheme.

It should be pointed out that the competent environmental inspectors shall be responsible for the inspection of retail and wholesale trade units in accordance with the draft law. The procedure of inspections is determined by the regulations applicable to the Environmental Protection Inspectorate.

The draft law leaves some discretion in accounting for introduced products in beverage packaging. The representative entity is obliged to propose in the application for the operation of the activity rules for accounting for packaging waste submitted for recycling under the deposit system and packaging collected under this scheme.

It should be noted that the draft also entails a change in the reporting of municipal waste. The draft adds provisions indicating explicitly that the representative entity is obliged to draw up annual reports on packaging waste collected from retail and wholesale trade units and other points collecting packaging and packaging waste covered by the deposit scheme. The report of the representative entity shall be obliged to draw up and be submitted to the village head, mayor, intercommunal union or metropolitan union by 31 January for the previous calendar year separately for each municipality in which such waste was received. The report shall include information about the weight of packaging waste collected under the deposit system and the weight of this waste prepared for reuse and recycling. At the same time, the draft provides for the exemption of collectors of municipal waste and points of selective collection of municipal waste from the obligation to submit to the village head, mayor of the city the report referred to in Article 9na and Article 9nb of the Act of 13 September 1996 on the maintenance of cleanliness and order in municipalities (Journal of Laws of 2022, item 2519) for collected packaging waste covered by the deposit system.

The draft also envisages introducing sanctions for introducing products in packaging for beverages covered by the deposit system, among others for:

- 1) not keeping or keeping records contrary to the actual state;

- 2) failure to provide the representative body with the necessary data to fulfil the obligations of the deposit system, including information on all packaging covered by the scheme placed on the market in a given calendar year;
- 3) not affixing on the packaging a marking indicating that such packaging has been covered by a deposit system.

In addition, the draft envisages the introduction of sanctions for an entity that operates a deposit system without the required permit and does not ensure the collection of packaging and packaging waste under the deposit system from retail and wholesale units.

The draft also envisages the introduction of sanctions for the marketing of beverages in reusable glass bottles up to one and a half litres, who sell directly to consumers for failing to keep records of the packaging in which he has placed drinks on the market, including their weight, number and volume.

It should be noted that the provisions of the proposed act allow for the operation of deposit schemes established before the date of entry into force of the Act until 1 January 2025, i.e. until the date on which the deposit system referred to in the proposed act should become operational. The introduced provision allows commercial entities to collect packaging covered by the deposit system before 1 January 2025 on the basis of the existing rules, i.e. with the return of the deposit previously paid. At the same time, such actions shall not be possible after 31 December 2025. Such a period should ensure, on the one hand, that bottles that are still usable and not waste can be collected, and on the other hand, it shall motivate those who operate such deposit schemes to join or set up a deposit scheme in accordance with the draft rules. In addition, it should be pointed out that bottles collected in such systems (*de facto* outside the deposit system) shall not be eligible for separate collection of packaging and packaging waste.

In addition, it is assumed that paragraph 3 in Article 21 of the Act on Packaging and Packaging Waste Management shall be repealed. This change shall remove the legislative barrier to the development of the chemical recycling industry of plastic waste.

In view of the introduction of new solutions for the functioning of the deposit system for beverage packaging, it is also necessary to adapt the appropriate VAT rules related to the taxation of non-returned packaging accordingly.

The present draft proposes amendments to the VAT Act of 11 March 2004 (Journal of Laws of 2022, item 931, as amended), hereinafter referred to as the 'VAT Act', as regards the introduction of provisions governing the taxation of reusable returnable packaging covered by the deposit system referred to in the draft Act amending the Act on the management of packaging and packaging waste and certain other acts.

The solutions applied under the VAT Act now indicate that, in principle, the taxable amount for supplies of goods is the cost of packaging charged to the purchaser of the goods. This means that, in principle, the value of the packaging is included in the price of the goods sold within its taxable amount and that the whole is taxed at the rate specific to the goods sold (Article 29a(a). 10 of the VAT Act).

On the other hand, the value of the packaging shall not be included in the taxable amount if the taxpayer has supplied the goods in return packaging, collecting a deposit for that packaging or specifying such a deposit in the contract for the supply of goods. In the event that the purchaser does not return the returnable packaging (on deposit collected), the taxable amount shall be increased by the value of that packaging: on the day following the date on which the contract provided for the return of the packaging, if the packaging has not been returned within the period specified in the contract; on the 60th day from the date of delivery of the packaging – if the contract does not specify a deadline for returning this package.

Therefore, the collection of a deposit for the sale of goods in return packaging and its subsequent return by the seller within certain time limits, which were determined based on the documentation kept by the taxable person, does not result in tax consequences under the VAT Act.

The rules for the VAT treatment of returnable packaging are laid down in Article 92 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ EU L 347, 11.12.2006, p. 1 as amended), hereinafter referred to as the 'VAT Directive'. Member States, when introducing VAT settlement arrangements on returnable packaging, must design the rules in a manner consistent with the accepted principles of the VAT Directive.

Article 92 of the VAT Directive provides that, in the case of returnable packaging costs, Member States may adopt one of the following measures:

- 1) exclude these costs from the taxable amount by taking the necessary measures to correct this basis if the packaging is not returned;

2) include these costs in the taxable amount, taking the necessary measures to correct this basis if packaging is returned. The design of Article 92 of the VAT Directive shows that the Member States have flexibility while respecting the VAT rules on:

1) determining the conditions for excluding (a) or including (b) the costs of returnable packaging from the taxable amount;

2) determine the necessary measures to correct the taxable amount in the event of failure to return (a) or return those packages accordingly.

The VAT Directive gives Member States the flexibility to create a solution considering the specific nature and economic reality of returnable packaging which:

1) on the one hand, it shall serve to safeguard the tightness of the system, i.e. avoiding non-taxation of consumption, by ensuring that the costs of these packages are taken into account in the tax base, e.g. where the taxpayer retains the deposit due to the failure to return the packaging;

2) and, on the other hand, it shall be proportionate from the point of view of taxpayers and therefore shall not generate excessive costs and nuisances in the application of this solution.

In addition, it should be pointed out that Article 92 of the VAT Directive concerns reusable packaging, but does not apply to packaging returned under the deposit system as so-called packaging waste. It is therefore necessary to distinguish clearly the VAT rules for reusable and non-reusable packaging.

The draft law introducing a deposit system aims to regulate the rules for the functioning of the deposit system in Poland for single-use packaging and reusable packaging.

The essence of the deposit system in the bill lies in the possibility for the consumer to return the packaging covered by the deposit system at any point that participates in the deposit system as part of the collection of empty packaging and packaging waste.

The bill provides for the possibility of returning reusable packaging covered by the deposit system without the need to present a purchase receipt or other document confirming the sale. The return of the reusable packaging covered by the deposit system shall therefore mean that the receiving point shall return the deposit collected, verifying only whether the reusable packaging was subject to the deposit system.

At the same time, the deposit for reusable packaging after the drink shall be charged only at the stage of the sale by the commercial entity obliged to contract with the representative entity.

The proposed changes which introduce the deposit system entail the need to adjust the VAT settlement rules accordingly.

The proposed VAT solutions shall not change the rules applicable to returnable packaging, which shall not be covered by the deposit scheme or for which operators placing such packaging on the market shall not opt to join the deposit scheme.

The proposed amendments to the VAT Act concern only reusable returnable packaging covered by the deposit system. These provisions shall not apply to other types of packaging – so-called packaging waste does not constitute returnable packaging within the meaning of Article 92 of the VAT Directive.

The draft also proposes to repeal paragraphs 2 and 3 in Article 72 of the Act of 24 April 2009 on batteries and accumulators and Article 88 of the Law of 11 September 2015 on waste electrical and electronic equipment. The proposed amendment aims to organise the regulations related to the preparation of a report on the functioning of the management of batteries and accumulators and used batteries and used accumulators and report on the functioning of the waste equipment management system. The obligation to prepare reports was imposed on the Chief Inspector of Environmental Protection before the launch of BDO. Currently, the minister responsible for climate matters has the ability to generate data on the functioning of the management of batteries and accumulators and waste batteries and waste accumulators, as well as the functioning of the waste equipment management system with BDO, therefore, the preparation of the above-mentioned reports by the Chief Inspector of Environmental Protection is unwarranted.

The draft also introduces changes to Article 73. par 73 par. 2 point 5(a) of the Waste Act of 14 December 2012 and amendments to Article 72 of the Waste Electrical and Electronic Equipment Act of 11 September 2015. The purpose of the proposed amendment is to tidy-up the Act of 14 December 2012 waste related to the reporting of used equipment. This

amendment should also be reflected in Article 72 of the Law of 11 September 2015 on waste electrical and electronic equipment – now Article 72 para. 2 provides that an operator who has failed to comply with the obligation to achieve a minimum annual collection rate of waste equipment, the level of recovery or the level of preparation for re-use and recycling of used equipment shall be required to pay a product fee calculated separately for each group of equipment. The amendments result from the Regulation of the Minister for Climate and the Environment of 13 December 2022 on the choice of the method and method of calculating the collection rate of waste electrical and electronic equipment (Journal of Laws, item 2704) and rely on the indicating that the collection rate and the amount of the product fee are provided for group 4 by photovoltaic panels and other equipment in that group.

Expected results:

- 1) an increase in the mass of separately collected packaging waste and packaging on which a deposit shall be imposed;
- 2) a reduction in the weight of plastic, glass and metal packaging waste in the municipal waste stream;
- 3) achieving the Union targets for the separate collection of plastic bottles from beverages up to three litres;
- 4) reducing environmental pollution from packaging waste.

Benefits:

- 1) increasing the level of recycling of packaging waste achieved;
- 2) reducing environmental litter of packaging waste;
- 3) clear and transparent rules for a deposit system that is uniform throughout the country;
- 4) reducing the consumption of primary raw materials, which means leaving more of them for future generations.

The most effective way to achieve the target levels of separate collection of packaging and packaging waste proposed in the draft law is the deposit system. While alternative measures are possible – e.g. changes in municipal systems to ensure additional selection of waste received (e.g. the separation of plastic packaging waste after beverage packaging), the introduction of modifications and interference with municipal separate collection systems could create significant burdens for both residents and the systems themselves. Moreover, the lack of adequate incentives for residents would certainly not ensure high levels of segregated collection of this packaging waste.

3. How has this problem been solved in other countries, in particular OECD/EU Member States?

The deposit system in Europe operates in countries such as: Croatia, Denmark, Estonia, Finland, the Netherlands, Iceland, Lithuania, Latvia, Germany, Norway and Sweden. The deposit system mainly collects glass bottles, plastic bottles (mainly PET) and metal packaging (aluminium and steel). Empty packaging can be collected manually, e.g. by shop employees or at another collection point, or automatically in special devices.

In Croatia, the deposit is equal to EUR 0.07 per package. Packaging collection takes place in stores over 200 m², stores with a smaller area are not obliged to collect packaging. An administrative fee (EUR 0.1 to EUR 0.2 per packaging), a recycling fee (EUR 0.013 per packaging) and an incentive fee (depending on the type of package of EUR 0.04-EUR 0.13 per package) shall be charged to the entity introducing products in beverage packaging to the system.

In Finland, the deposit scheme is voluntary. The amount of the deposit depends on the type of packaging – for glass – EUR 0.1, metal – EUR 0.15 and for plastic – EUR 0.10 – EUR 0.40 (depending on the capacity of the bottle). A private organisation manages the system, organises the collection, transport and recycling of packaging. Retailers collecting packaging receive a return from the system of EUR 0.027 to EUR 0.030. On the other hand, when introducing products in beverage packaging, they pay an administrative fee (depending on the type of packaging of EUR 0.00935 – 0.2205 per package), a membership fee (preliminary EUR 3,658.54 – EUR 6,178.66 and 5 times per year EUR 813.01 – 1,382.11) and registration fees (EUR 40.65 – EUR 325.20). In 2016, the return rate was 88 % for glass, 92 % for PET and 96 % for metal.

In Germany, the deposit system covers packages with a capacity of 0.3 to 3.0 litres, and the amount of the deposit is the same for all types of packaging – EUR 0.25. The system is managed by a private organisation. Shops offering products in packages covered by a deposit are obliged to accept packaging regardless of the area of the store, in addition, they do not receive payment titles. The person introducing the products in beverage packaging bears the administrative costs and pays the registration fee.

4. Entities affected by the draft			
Group	Size	Data source	Impact
Economic operators introducing products in packaging for beverages covered by a deposit scheme, introducing directly products in beverage packaging and their representative entities who shall apply for authorisation	about 25,000	BDO (as of 18 May 2021)	Appointment of a representative body which is required to apply for authorisation to operate a deposit scheme. Obligation to achieve levels of segregated collection of packaging and packaging waste. Deposit reporting obligations. Possible payment of a product charge in the event of failure to set up a system or failure to meet the required levels of separate collection.
Households	15.2 million (number of apartments)	National Census of Population and Housing 2021	The obligation to pay the deposit in the case of the selection of the beverage in the package covered by the deposit scheme and the possibility of subsequent recovery of the deposit.
Business units	approximately 256,400 (all units)	Central Statistical Office (Statistical Analyses. Internal Market 2018 (2019))	Deposit collection, and in the case of commercial units with a sales area above 200 m ² also return of deposit and storage of packaging and packaging waste.
Minister for Climate Affairs	1	–	Verification and evaluation of applications for authorisation to activate the deposit system. Issuing decisions (licences) to initiate the deposit system. Supervision of entities authorised for the deposit scheme.
Provincial Environmental Inspectors	16	Websites of Provincial Environmental Inspectors	Supervision of compliance with the rules on separate collection of packaging and packaging waste by retail and wholesale units with a specific sales area.

5. Information on the scope and duration of consultations, and summary of consultation results

The bill was not subject to pre-consultation. On 31 January 2022, the draft was submitted for public consultation, opinion and agreement for 30 days.

As part of the public consultation, the draft received:

- 1) Polska Izba Handlu (Polish Chamber of Commerce);
- 2) National Union of Juice Producers Association (Stowarzyszenie „Krajowa Unia Producentów Soków”);
- 3) Polish Federation of Food Industry (Polska Federacja Producentów Żywności);
- 4) Union of Beer Industry Employers in Poland – Polish Breweries (Związek Pracodawców Przemysłu Piwowarskiego w Polsce - Browary Polskie);

- 5) Polish Zero Waste Association (Polskie Stowarzyszenie Zero Waste);
- 6) ReLoop Europe;
- 7) Polish Organisation of Trade and Distribution (Polska Organizacja Handlu i Dystrybucji);
- 8) Employers Association of the Packaging Industry and Products in Packaging EKO-PAK (Związek Pracodawców Przemysłu Opakowań i Produktów w Opakowaniach EKO-PAK);
- 9) Federation of Polish Entrepreneurs (Federacja Przedsiębiorców Polskich);
- 10) Polish Association of Plastic Processors (Polski Związek Przetwórców Tworzyw Sztucznych);
- 11) European Environmental Bureau;
- 12) Foundation for Social Ecological Education (Fundacja Społecznej Edukacji Ekologicznej);
- 13) Institute of Closed-Loop Economy (Instytut Gospodarki o Obiegu Zamkniętym);
- 14) 'Polish Recycling' Association (Stowarzyszenie 'Polski Recykling');
- 15) WWF Polska;
- 16) Foundation for the Recovery of Aluminum Packaging RECAL (Fundacja na rzecz Odzysku Opakowań Aluminiowych RECAL);
- 17) Ecotech System;
- 18) Grupa Maspex Sp. z o.o.;
- 19) PepsiCo Poland;
- 20) Oshee Sp. z o.o.;
- 21) Grupa Żywiec S.A.;
- 22) Żywiec Zdrój S.A.;
- 23) Danone group of companies;
- 24) ERP Polska Organizacja Odzysku Sprzętu Elektrycznego i Elektronicznego i Organizacja Odzysku Opakowań S.A.;
- 25) Branżowa Organizacja Odzysku Opakowań S.A.;
- 26) Tom-Doleko-Ekola Organizacja Odzysku Opakowań S.A.;
- 27) „Oiler Organizacja Odzysku Opakowań I Olejów” S.A.;
- 28) Interseroh Organizacja Odzysku Opakowań S.A.;
- 29) Biosystem Organizacja Odzysku Opakowań S.A.;
- 30) Organizacja Odzysku Opakowań Rebis S.A.;
- 31) Organizacja Odzysku Opakowań Torent S.A.;
- 32) Reeko Organizacja Odzysku Opakowań S.A.;
- 33) Rekopol Organizacja Odzysku Opakowań S.A.;
- 34) Alba Organizacja Odzysku OPAKOWAŃ S.A.;
- 35) Total-Eko Organizacja Odzysku Opakowań S.A.;
- 36) Auraeko Baterpak Organizacja Odzysku Opakowań S.A.;
- 37) Pro-Ekol Organizacja Odzysku Opakowań S.A.;
- 38) Eko Cykl Organizacja Odzysku Opakowań S.A.;
- 39) Eurobac Organizacja Odzysku Opakowań S.A.;
- 40) Energa Organizacja Odzysku Produktów i Opakowań S.A.;
- 41) Eko Trade Organizacja Odzysku Opakowań S.A.;
- 42) Recan Organizacja Odzysku Opakowań S.A.;
- 43) Eko-Świat Organizacja Odzysku Opakowań S.A.;
- 44) Eko-Punkt Organizacja Odzysku Opakowań S.A.;
- 45) CCR Repack Polska Organizacja Odzysku Opakowań S.A.;
- 46) Ogólnopolska Organizacja Odzysku Opakowań O Trzy S.A.;
- 47) Konsorcjum Olejów Przetworzonych – Organizacja Odzysku Opakowań i Olejów S. A.

The draft was also submitted to the following on 31 January 2022 for feedback:

- 1) voivods (provincial governors);
- 2) marshals of provinces;
- 3) Provincial Funds for Environmental Protection and Water Management;
- 4) provincial environmental protection inspectors;
- 5) regional directors for environmental protection;
- 6) National Fund for Environmental Protection and Water Management;

- 7) President of the Central Statistical Office of Poland;
- 8) SME Ombudsman;
- 9) President of the Personal Data Protection Office.

Due to the scope of the draft, it was sent for a feedback to the Joint Commission of the Government and Local Government, the Social Dialogue Council and representative employers' organisations with a deadline of 30 days to submit any comments. Due to the scope of the draft, the draft did not require feedback from representative trade union organisations.

The draft did not require submission to the institutions and bodies of the European Union, including the European Central Bank, for an opinion, notification, consultation or agreement.

The draft requires technical notification and notification under Article 17 of the SUP Directive.

The draft bill, in accordance with the Act of 7 July 2005 on lobbying activities in the process of law-making (Journal of Laws of 2017, item 248) and the results of the public consultations and feedback were published on the website of the Public Information Bulletin of the Government Legislation Centre in the Government Legislative Process tab.

6. Impact on the public finance sector

(fixed prices for ... [year])	Impact over 10 years from implementing the amendments [PLN million]										
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Total (2022– 2031)
Total revenue	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
State budget	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
JST – municipalities	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total expenditure	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
State budget	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
JST – municipalities	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total balance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
State budget	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
JST – municipalities	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Sources of financing	The regulation shall have no impact on the state budget.										
Additional information, including indication of data sources and assumptions used for calculations	It is not possible to determine the impact on the public finance sector. However, it should be borne in mind that a significant part of the waste generated from packaging, which is planned to be covered by the deposit scheme, goes to municipal waste. Therefore, a reduction in the stream of this waste is expected after the introduction of the deposit system. The deposit system should become a financial stimulus for citizens, which shall cause them to hand bottles covered by the deposit system over to shops instead of throwing them away in order to recover the deposit previously paid.										

7. Impact on the competitiveness of the economy and entrepreneurship, including the functioning of enterprises and impact on families, citizens and households

		Effects							
Time in years since entry into force of the amendments		0	1	2	3	5	10	Total (0–10)	
In monetary terms (in PLN millions, fixed	large enterprises	-	-	-	-	-	-	-	
	micro, small, and medium-sized enterprises	-	-	-	-	-	-	-	

prices for [year])	families, citizens and households	-	-	-	-	-	-	-
	persons with disabilities and the elderly	-	-	-	-	-	-	-
In non-monetary terms	large enterprises	The proposed solutions shall have an impact on the activities of entrepreneurs due to the introduction of a deposit scheme to finance the introduction of products in packaging for beverages covered by the scheme.						
	micro, small, and medium-sized enterprises	Proposed solutions shall have an impact on the activities of entrepreneurs due to the introduction of a deposit system, which shall be financed through participation in this system by introducing products in packaging for beverages covered by this system.						
	families, citizens and households	The proposed solutions shall have an impact on households due to the need to return packaging or packaging waste in order to recover the deposit. In the future, due to a reduction in the municipal waste stream, this may result in a reduction in the financial burden on households.						
	persons with disabilities and the elderly							
Unmeasurable	the economic and social situation of the family, the disabled and the elderly	It is assumed that the draft shall contribute to reducing the amount of packaging waste in the municipal waste stream. This, in turn, may reduce the rates of fees under municipal schemes, which shall translate into the financial stability of families.						

Additional information, including the identification of data sources and assumptions made in the calculation	<p>Deposit system</p> <p>The draft law sets out only the basic conditions for the creation of a deposit system, and not the detailed arrangements that would have to be adopted in this system. It is currently not possible to make a forecast for the deposit system due to the new nature of the instrument being introduced and also to leave a great deal of freedom for entrepreneurs in creating and maintaining it.</p> <p>It is also not possible to determine the impact of the proposed act on the points of purchase. It is not known how many such points exist in Poland. In addition, it is not known whether the points of purchase shall want to participate in the deposit scheme, and if so, what percentage. Furthermore, it is not possible to predict whether consumers shall be more likely to return packaging and packaging waste generated from packaging covered by a deposit scheme to retail and wholesale units or to other collection points, including points of purchase.</p>
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8. Change in the regulatory burden (including disclosure obligations) resulting from the draft

<input type="checkbox"/> not applicable	
Burdens are placed outside those strictly required by the EU (see the inverted compatibility table for details).	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no <input type="checkbox"/> not applicable
<input type="checkbox"/> reduction in the number of documents <input type="checkbox"/> reduction in the number of procedures <input type="checkbox"/> shortening of the time to settle the matter <input type="checkbox"/> other:	<input checked="" type="checkbox"/> increase in the number of documents <input checked="" type="checkbox"/> increase in the number of procedures <input type="checkbox"/> extension of the time to settle the matter <input type="checkbox"/> other:
The introduced burdens are suitable for digitisation.	<input type="checkbox"/> yes <input type="checkbox"/> no <input checked="" type="checkbox"/> not applicable

An entity representing entrepreneurs who shall create a deposit system on their behalf shall be obliged to obtain a permit for the operation of the deposit system issued by the minister proper for climate, by means of a decision. In addition, the entity representing the introduction of products in beverage packaging shall be obliged to report annually on the functioning of the deposit system.

On the other hand, retail and wholesale units with a sales area exceeding 200 m², where beverages are offered in

packages subject to a deposit scheme, shall be required to at the minimum collect and return deposits and collect empty packaging and packaging waste. In addition, retail and wholesale units and other packaging and packaging waste collection points participating in the deposit scheme shall be required to keep specific records covering, inter alia, the number of beverages purchased and sold in packages covered by the deposit scheme. In addition, the entrepreneur operating a retail and wholesale unit or another point collecting packaging and packaging waste involved in the deposit scheme for at least the collection of the deposit shall be obliged to place, in a prominent place, information on the conditions and manner of returning empty packaging and packaging waste under the deposit scheme and the possibility of returning the deposit collected.

9. Impact on the labour market

The draft law shall not affect the labour market.

10. Impact on other aspects

<input checked="" type="checkbox"/> natural environment <input type="checkbox"/> regional standing and development <input type="checkbox"/> common, administrative, or military courts	<input type="checkbox"/> demographics <input type="checkbox"/> state property <input checked="" type="checkbox"/> other: impact on citizens	<input type="checkbox"/> computerisation <input checked="" type="checkbox"/> health
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Discussion of the impact	<p>The draft document shall reduce the negative impact of waste on the environment and health. Risks to health and the environment are expected to be reduced by reducing waste generation and proper handling of waste. In addition, waste prevention and separate collection for recycling shall reduce the use of raw materials for production. This shall allow for more resource efficiency.</p> <p>The proposed solutions should have a beneficial effect on, among others, the use of waste as secondary raw materials, which shall reduce environmental pollution and ensure economic effects in the form of:</p> <ol style="list-style-type: none"> 1) reducing the capital intensity and energy intensity of raw material sourcing and processing; 2) reduce material consumption and production costs.
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11. Planned implementation of the provisions of the act

According to the draft law, the law shall enter into force 30 days from the date of publication.

12. How and when shall the impact of the draft Regulation be assessed, and what measures shall be applied?

Evaluation of the legal act shall be carried out periodically by monitoring the degree of achievement of the objectives set in the draft. In accordance with the proposed regulations those introducing products in beverage packaging and introducing directly products in beverage packaging specified in the draft act shall be obliged to achieve segregated collection levels of packaging and waste resulting from these packaging. The level that these objectives have been achieved shall be evident in the annual reports of products introduced in beverage packaging and directly introduced products in beverage packaging. The first report shall be drafted and submitted by the operators for the first time for the year in which the deposit scheme was activated.

13. Annexes (important source documents, research, analyses, etc.)

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