



ENVIRONMENTAL POLICY DIVISION

CONSULTATION DOCUMENT

PROPOSALS FOR A CHARGE ON SINGLE USE CARRIER BAGS

20 July 2011

**This document is available in alternative formats. Please
contact us to discuss your requirements:**

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CONSULTATION ARRANGEMENTS

How to respond to this consultation

The commencement date of this consultation is 20 July 2011 and it will close on 12 October 2011.

The consultation paper can also be accessed at the following website address:

http://www.doeni.gov.uk/index/protect_the_environment/waste.htm

Responses can be sent:

By email to: ian.troy@doeni.gov.uk

By post to:

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When responding, please state whether you are responding as an individual or representing the views of an organisation. If you are representing an organisation please make it clear which organisation you represent, and, where applicable, how the views were assembled.

It would be very helpful if you could present your views in the form of responses to the individual questions that are asked in the document.

Enquiries

Enquiries regarding the content of this consultation paper, or requests for further copies, should be made to Ian Troy (e-mail: ian.troy@doeni.gov.uk ; telephone: 028 9025 4917). Information and additional copies of the document can also be requested by textphone (028 9054 0642).

Confidentiality

The Department may wish to publish responses to this Consultation document. It will certainly, at the end of the consultation period, publish on its website a summary of the responses received.

If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

You should also be aware that there may be circumstances in which the Department will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000¹ and the Environmental Information Regulations. The paragraphs below give further information on Freedom of Information which you should read before you submit your response. It contains guidance on the legal position of any information given by you.

¹ 2000 c. 36

GUIDANCE ON THE CONFIDENTIALITY OF CONSULTATION RESPONSES

The Freedom of Information Act 2000 gives the public a right of access to any information held by a public authority – for the purposes here, the Department of the Environment – which includes information provided in response to a consultation.

However, the Department of the Environment is responsible for deciding whether any information provided in response to a consultation should then either be made public or considered confidential – a decision which extends to information about a consultee’s identity.

In practice, this means that information provided by a consultee is unlikely to be regarded as confidential other than in very particular circumstances. The Lord Chancellor’s Code of Practice on the Freedom of Information Act 2000 provides that:

- the Department of the Environment should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of its functions and it would not otherwise be provided;
- the Department of the Environment should not agree to hold information received from third parties “in confidence” which is not confidential in nature;

- acceptance by the Department of the Environment of confidentiality provisions must be for good reason and capable of being justified to the Information Commissioner.

For further information about confidentiality or responses, please contact the Information Commissioner's Office, or see the web-site at:

<http://www.ico.gov.uk>

You may also find the following document useful:

http://www.ico.gov.uk/~media/documents/library/Freedom_of_Information/Detailed_specialist_guides/CONFIDENTIALINFORMATION_V4.ashx

A. INTRODUCTION

The NI Executive's Final Budget 2011-15' was agreed by the Assembly in March 2011. As part of the Budget settlement the Executive commissioned the Minister of the Environment to introduce a charge on carrier bags.

In anticipation of the proceeds arising from this charge, some £4million has been reduced from the Department's annual budget; a corresponding amount has been made available as an initial contribution to the Executive's work on the Green New Deal. The anticipated revenue raised will be used to restore this reduction. The proposed charge therefore has the twin objectives of environmental protection and revenue generation. However the primary motivation is environmental with revenue benefits secondary.

On this basis, the Department of the Environment is committed to bringing forward legislation which will introduce a minimum charge on single use carrier bags. This will mean that in the future sellers will have to charge their customers for carrier bags which at the moment are usually given away free. Sellers will then be required to forward the proceeds from the minimum charge to government.

The Department is keen to engage with key stakeholders and the wider public to inform the policy development process. This consultation paper therefore summarises what the Department considers are the main issues involved in the introduction of a charge on single use carrier bags for Northern Ireland – and poses a number of related questions. Your views on these would be very much appreciated. It should be noted that the Department would wish that the proposed levy would cover as wide a range of bags as possible.

We would ask you to note that, in order to implement the decisions of the Executive Committee taken in 2011, the following provisos will apply:

- **a charge on single use carrier bags will be introduced no later than 1 April 2013;**
- **sellers will be obliged to pass on the charge to customers; and**
- **sellers will be obliged to forward the revenue generated by the minimum charge to the Department.**

B. BACKGROUND

Considerable progress has already been achieved in reducing the number of single use plastic carrier bags in circulation in Northern Ireland. As the result of a voluntary agreement to reduce the number of bags in circulation, the number of bags handed out in major supermarkets in 2009/10 fell by 9.3% from the previous year. Through the Northern Ireland *Rethink Waste* campaign, the Department will continue to encourage behavioural change and improve awareness of the need to reduce single-use bag consumption.

Following the Executive's collective decision to bring forward a charge on carrier bags however, the Department is now tasked with making the necessary arrangements for a carrier bag levy. Work is underway to complete an economic appraisal which will identify the costs and benefits of the proposed new arrangements. The outcome of this process will inform Executive decisions on policy implementation.

Environmental Benefits of a Charge on Single Use Carrier Bags

Some of the key objectives of the proposed charging policy are as follows:

- Encouraging increased environmental awareness among consumers;
- Continuing the momentum of the movement away from a 'throwaway' society;
- A reflection of the true costs to society of the use of single use carrier bags;
- Improved waste management by focusing on waste prevention and re-use; and
- Improved local environmental quality through reduced littering with its associated dangers to wildlife.

Statistical evidence presented by WRAP (Waste and Resources Action Programme) suggests that some 189 million single use carrier bags were issued by major supermarkets in Northern Ireland during 2009/10. On the assumption that such supermarkets account for around 80% of overall bag usage, an estimated 233 million bags were in circulation during that year.

Experience elsewhere suggests that the introduction of a bag charge typically generates a reduction in usage of somewhere between 87% and 91%, and potentially up to 95%. A reduction of this scale is likely to generate significant environmental benefits including reduced CO2 emissions and air and water pollution from the production process, reduced waste going to landfill and cleaner streets and beaches.

Revenue Requirements

The proposed charge will need to raise at least £4million to restore the deficit in the Department's annual budget. In terms of likely total revenue generation, key influencing factors will be:

- annual administration costs;
- the extent to which the imposition of a charge generates a reduction in bag usage; and
- whether VAT needs to be paid on the proceeds of the charge.

Annual Administration Costs

Since administrative arrangements have not yet been established, it is impossible to accurately predict the likely costs. Research completed in Scotland suggested that annual administration costs may amount to as much

as 50% of receipts. Certainly it seems reasonable to budget for administration costs in the region of £1 to £2 million.

Bag Usage

Experience elsewhere suggests that the introduction of a charge – regardless of the amount – is likely to reduce bag usage by at least 87%. The higher the charge, the greater the likely reduction; there is potential for this reduction to be as high as 95%.

VAT

If VAT was to be imposed on the charge, this would obviously reduce the revenue generated. A decision on the VAT status of a charge on carrier bags in Northern Ireland has not yet been taken.

Position in Ireland and in the rest of the UK

Ireland

Ireland introduced a levy on plastic bags in 2002². The legislation requires retailers to pass the full amount of the levy - initially 15 Euro cents per bag, increased to 22 cents in 2007 - to customers at the point of sale. The revenue generated goes into an Environmental Fund.

² S.I. No. 605/2001 — Waste Management (Environmental Levy) (Plastic Bag) Regulations, 2001

It has been estimated that consumption of plastic bags has fallen by over 90% since the introduction of the levy and over €80 million has been raised in receipts to support environmental initiatives.

However, in considering the amount raised in Ireland, it should be noted that the levy in Ireland extends to cover reusable bags that are sold for less than 70 cents. Without legislative change, it will not be possible to extend the levy to reusable bags in Northern Ireland. The implications of this - and the possible impact in relation to the potential revenue stream - are discussed on pages 17-18.

Wales

Wales is the only other part of the UK to be planning the introduction of a charge for carrier bags³ (although DEFRA has indicated that, for England, the issue will be considered in the light of the 2011-12 figures on the use of single-use carrier bags in England and the results of the proposed policy in Wales).

From 1 October 2011, those selling goods in Wales or selling goods that are delivered in Wales will be obliged to charge a minimum of 5p for most single use carrier bags – not simply plastic bags.

Sellers will be expected to pass on the proceeds from the charge to environmental causes in Wales. In this sense, it differs from proposed policy in Northern Ireland, where the proceeds will be forwarded to the Department.

³ 2010 No. 2880 (W. 238) - The Single Use Carrier Bags Charge (Wales) Regulations 2010

In its development of the policy and legislation for a charge on carrier bags in Northern Ireland and in planning for its implementation, the Department will seek to learn from the experience of other jurisdictions – such as Ireland and Wales - which have introduced such arrangements. However, the Department will ensure that its charging scheme is designed to be appropriate for Northern Ireland's specific circumstances.

Legislation

The Climate Change Act 2008

Section 77 and Schedule 6 of the Climate Change Act 2008⁴ - as originally passed by Parliament - already enable the Department to require sellers to charge for single use carrier bags that they supply to their customers. The Act provides that detailed arrangements for a charging scheme for carrier bags are to be provided for in subordinate legislation.

Significantly, however, the Act provides that monies raised through the charge are to be retained by sellers, rather than paid to Government. It therefore does not provide for the type of arrangement that was proposed by the Executive, and reflected in the Budget announcement.

The Single Use Carrier Bags Act (Northern Ireland) 2011

The Single Use Carrier Bags Act⁵ amends the Climate Change Act 2008. The effect of this amendment – which is specific to Northern Ireland – is to enable

⁴ 2008 c. 27

⁵ 2011 c.26 (N.I.)

the Department to stipulate that the proceeds of any charge on carrier bags are to be returned to the Department.

Consequently, the detailed framework for implementation of the new arrangements – including both the amount and the scope of the charge – will be determined by regulations made under the Climate Change Act 2008.

The proposed Single Use Carrier Bag Regulations (Northern Ireland) 2012

The Department is currently exploring various options for the future introduction of the charge on carrier bags – with a view to identifying the most effective and efficient approach for its collection and enforcement – before making the necessary subordinate legislation.

However it is anticipated that the regulations to introduce such a charge in Northern Ireland will:

- define the sellers who will be covered by the new arrangements;
- specify the minimum amount that a seller must charge;
- define single use carrier bags;
- make provision for an administrator to oversee the arrangements;
- require retailers to keep records of revenue raised by the charge (and may require these records to be published); and
- empower the administrator to enforce provisions made in the legislation (and may provide for civil sanctions in the event of a breach of the regulations).

C. KEY ISSUES FOR CONSIDERATION

Which sellers?

The Department's legislative proposals will require sellers of goods to charge for the single use carrier bags that they supply to customers.

In Wales, the legislation will require all sellers of goods, including companies, individual retailers and the not-for-profit sector to charge for carrier bags supplied. The objective is to create an even playing field (that is, not to disadvantage one sector over another) and also to provide a consistent message to consumers.

Taking the same approach in Northern Ireland would affect a wide range of businesses. As well as retail outlets of all types, the legislation would also encompass charity shops and mobile traders such as market stalls and catering vans. In addition, it would apply when a service provider, such as a hairdresser or beauty salon, sold goods (such as shampoos or other products) to be used at home.

In Wales, the obligation to charge applies both at a place where goods are sold, to allow the goods to be taken away and in circumstances where carrier bags are needed to enable the goods to be delivered. The most obvious example of the latter is in relation to supermarkets carrying out home deliveries. While a final decision is yet to be taken, the Department has taken an initial view that similar arrangements should apply in Northern Ireland.

1. What are your views on the Department's proposals as outlined above?

How much to charge?

The Department's proposals will require sellers to apply a minimum charge to each single use carrier bag they provide to customers to take goods away and to pass that charge onto their customers. Sellers will not be able to simply absorb the charge. The rationale for this is that passing the cost onto customers will help to enforce behavioural change.

Sellers will have the freedom to charge a higher amount than this minimum charge if they choose to do so; they will only be required to forward the minimum charge to the Department.

While work is underway to determine an appropriate minimum charge, a final decision has not yet been reached on how much this should be. The Department intends to consider a range of options for the minimum charge – and will seek to identify the optimal level to maximise both environmental benefit and revenue raised. There are a range of factors which will affect revenue, including the types of bags covered by the levy and the extent of exemptions provided for in the legislation. The Department is also aware of the interdependencies between revenue raised, price and consumption.

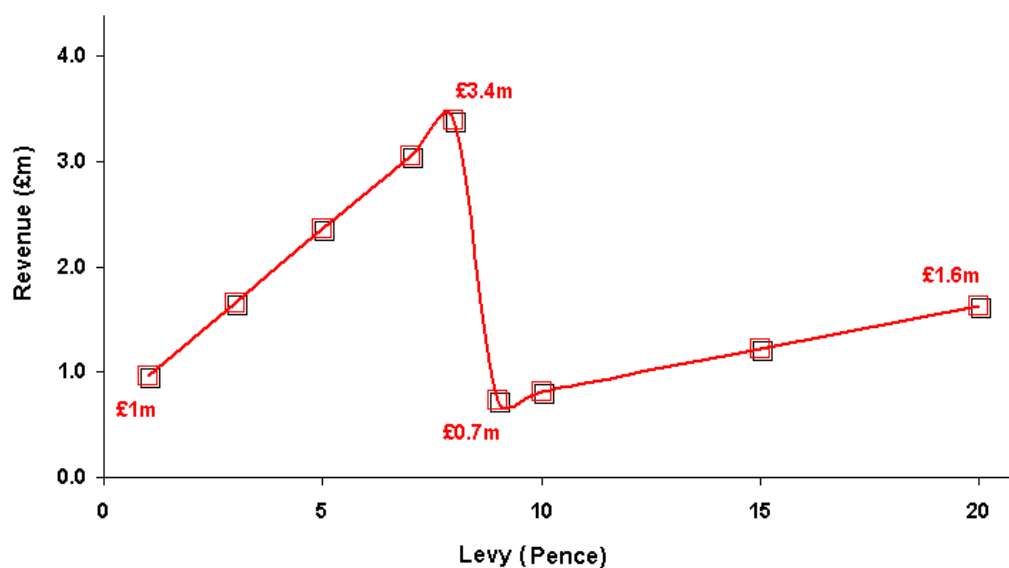
Economic modelling based on similar bag charges/levies in other jurisdictions suggests that a 5p levy would reduce single use carrier bag consumption by around 88% from the pre-Voluntary Agreement position and generate around £2.4m gross revenue. Collection and enforcement

costs would potentially be paid from this revenue, with any remaining revenue going to environmental projects.

However, modelling indicates that revenue will not necessarily increase as the levy increases. Faced with a choice of a single use carrier bag or a reusable bag of similar price, it is considered likely that consumers would opt for the reusable bag, even if it costs one or two pence more (as the bag can be reused at no extra cost or discarded as a single use bag). If consumers behave in this way, and given that many reusable bags are available for 10p, this would result in a tipping point beyond a levy of around 8 pence, with single use carrier bag consumption, and therefore revenue, falling sharply.

Due to this tipping effect, a 15p levy is estimated to reduce single use carrier bag consumption by up to 98% but generate only £1.2m gross revenue. This amount of revenue could be insufficient to cover collection and enforcement costs. Figure 1 illustrates the anticipated revenue depending on the levy.

Figure 1: Anticipated Revenue



The tipping effect could potentially be eliminated by applying the levy to lower priced reusable bags, as in Ireland (see page 12). This would potentially boost revenue raising potential while minimising overall carrier bag consumption and increasing environmental benefits. The inclusion of certain reusable bags could remove the tipping effect and increase the number of bags subject to the levy, further boosting revenue for environmental projects.

In 2009/10, €24.1m was raised in Ireland through the Plastic Bag Tax. Modelling suggests that a similar approach in Northern Ireland could boost revenue to around £5.5m with a 10p levy, with a drop in single use carrier bag consumption of around 90%. However, as mentioned above, the application of the levy to particular reusable bags would require primary legislation.

2. What do you think is an appropriate minimum charge for single use carrier bags – and why?

Which Bags?

The enabling legislation provides for a charge on all single use carrier bags. The Department's regulations will therefore need to specify the types of bags to be subject to the charge. The regulations allow the bags to be defined with reference to their size, thickness, construction, composition or other characteristics, by their intended use or by any combination of these factors.

While the Department has not yet reached a final decision on this issue, its preference would be that the charge is not restricted to single use plastic bags. This is because while lightweight plastic carrier bags attract a great

deal of attention, the Department's research to date suggests that paper bags and other alternatives can be equally or more damaging to the environment. Paper bags are heavier and bulkier than plastic and therefore impose a greater transport burden. Significant burdens are also generated during the manufacture of paper and processing it into bags.

The Department therefore believes that it is appropriate to explore the option of a charge on all single use carrier bags – rather than only plastic bags.

The Department will also need to consider whether the regulations should also specify if there should be exemptions from the charge for any type(s) of bag.

In Wales, the regulations include a number of exemptions from the charge on issues such as hygiene (bags which act as primary packaging for goods intended for human or animal consumption) and patient safety and confidentiality (bags which are used solely for NHS prescriptions) as well as bags designed for significant re-use.

While no decisions have been made, the Department's initial view is that to achieve its twin objectives of environmental protection and revenue generation, and to avoid undermining the scheme, the bag charge should be applied as widely as possible in Northern Ireland. Again, this approach would also help to create an even playing field for sellers, ensure that the scheme is as simple as possible to administer and provide a consistent message to consumers.

On this basis, and while the Department will of course consider the case for any suggested exemptions to the charge, it is expected that these will only be

accepted in very limited circumstances and that there will be a very restricted number of exemptions, if any. At this stage, and given that detailed research is underway, it is not possible to provide any indication of possible exemptions.

Finally, as outlined above, the Department is considering whether the charge should be extended to cover certain categories of reusable bags. However, as already stated, any extension of the charge beyond single use carrier would require new primary legislation, which will take some time to progress. In the interim, the potential impact on revenue of a levy confined to single use bags should be noted.

- 3. Are there any types of carrier bags which should be exempt from the charge? If so, on what grounds?**
- 4. Do you think that multiple use carrier bags should be included in any levy?**

Records and Publication

The Climate Change Act 2008 enables the Department to make regulations requiring sellers to keep records relating to charges made for single use carrier bags. The Department will also have powers to require sellers to publish their records.

The Department plans to make use of its powers in relation to record keeping. The data will be needed to ensure that the new arrangements can be monitored and evaluated and may be required for enforcement purposes.

In Wales, sellers will be allowed to use the proceeds from the carrier bag charge to offset the costs of record keeping; this can include costs such as staff time and the costs associated with IT systems for administering the charge. Larger undertakings will also be required to publish records setting out the general uses to which the proceeds have been directed.

The Department's initial view is that such off-setting would not be appropriate in Northern Ireland. This is in the interests of establishing a charging system which is simple to understand and administer, and to ensure that as much of the revenue raised as possible goes towards restoring the £4 million deficit in the Department's annual budget.

On this basis, in the Department's proposed scheme, sellers will not be permitted to use any proceeds from the bag charge to set against the costs they necessarily incur in setting up and maintaining a charging system.

In relation to the publication of records, the Department's initial views are that this would be less important in Northern Ireland, given that all proceeds from the bag charge will be returned to the Department. On this basis, and in the interests of keeping the regulatory burden on businesses as light as possible, the Department may decide that publication of records is not required, although it is likely that sellers will have to supply their records on request.

5. What information should sellers have to keep in relation to the carrier bag charge?

6. Should sellers have to publish their records?

Administration of the New Arrangements

The scale and complexity of what will be involved in developing arrangements for the administration of the scheme should not be underestimated. For example, the time required to procure, test and amend the IT system to enable the levy to be collected (following development of detailed policy proposals) is likely to be of some duration. Her Majesty's Revenue and Customs have advised that the required timescale to complete the IT project alone is estimated to be around eighteen months.

The enabling legislation gives the Department powers to appoint an agent to administer and enforce the new arrangements. This will include monitoring the collection of the charge and imposing civil sanctions (see below) on those sellers who do not comply with their requirements under the regulations.

In Wales, local authorities' Trading Standards Departments will administer and enforce the charge. The Department has not yet taken a decision on who should be appointed as its agent (or agents) to administer the Northern Ireland scheme. Again, it is likely to take some time to complete an assessment of the available options.

7. Have you any views on which organisation should administer the carrier bag charging scheme in Northern Ireland?

Enforcement and Sanctions

The administrator appointed by the Department will be given the power to enforce all aspects of the new arrangements.

Under the Climate Change Act 2008, enforcement action can be taken against a seller who breaches the regulations; liability to a civil sanction arises where the administrator discovers such a breach has been found.

A civil sanction can be in the form of either a ***fixed monetary penalty*** or a ***discretionary requirement***. A fixed monetary penalty cannot exceed £5000. A discretionary requirement can require a person to either:

- pay a variable monetary penalty of an amount specified by the administrator; or
- take such action as may be specified by the administrator to ensure that the breach of the regulations does not continue or recur (further penalties may be levied in the event of non-compliance).

8. Have you any views on the required arrangements to enforce the carrier bag charging scheme in Northern Ireland?

D: RESULTS OF INITIAL EQUALITY SCREENING, HUMAN RIGHTS ASSESSMENT AND RURAL PROOFING

Equality of Opportunity

Section 75 of the Northern Ireland Act 1998⁶ places a duty on public authorities to have due regard to promote equality of opportunity. The Department has completed an initial Equality Impact Assessment screening exercise in order to identify if any of the proposals included in this consultation will have an impact on the Section 75 groups and has concluded that no adverse differential impact is likely. Further screening will be required as the detailed proposals are developed.

Human Rights assessment

The outline proposals contained in this consultation are considered to be compatible with the Human Rights Act 1998⁷. Again, the position will need to be kept under review during the policy development process.

Rural Proofing

It is considered that there are no negative impacts on rural productivity or the provision of services to the rural community as a result of these proposals.

⁶ 1998 c. 47

⁷ 1998 c. 42

Regulatory Impact Assessment

The Department will be conducting a Regulatory Impact Assessment and will be making the results of this available in due course.

9. Have you any comments on the Department's preliminary conclusions in relation to equality screening, human rights or rural proofing?

SUMMARY OF QUESTIONS

- 1. What are your views on the Department's proposals in relation to which sellers should be subject to the charge?**
- 2. What do you think is an appropriate minimum charge for single use carrier bags – and why?**
- 3. Are there any types of carrier bags which should be exempt from the charge? If so, on what grounds?**
- 4. Do you think that multiple use carrier bags should be included in any levy?**
- 5. What information should sellers have to keep in relation to the carrier bag charge?**
- 6. Should sellers have to publish their records?**
- 7. Have you any views on which organisation should administer the carrier bag charging scheme in Northern Ireland?**
- 8. Have you any views on the required arrangements to enforce the carrier bag charging scheme in Northern Ireland?**
- 9. Have you any comments on the Department's preliminary conclusions in relation to equality screening, human rights or rural proofing?**