

# **PROPOSALS FOR A CHARGE ON SINGLE USE CARRIER BAGS**

## **SYNOPSIS OF CONSULTATION RESPONSES**

## 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 requires **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.

While a final decision has not been reached, the consultation document stated that the Department's initial view is that similar arrangements should apply in Northern Ireland.

#### 1. What are your views on the Department's proposals in relation to which sellers should be subject to the charge?

##### Summary of Responses (50 responses received)

**The majority of respondents to this question (30 responses) expressed support for the Department's proposal that the levy should apply to businesses across all sectors.**

Some respondents proposed seller exemptions, including:

- Sellers of hot food 'on-the-go' - mainly on the grounds of food safety.

- Chemists (see Q3).
- Charity shops.
- Small and Medium Enterprises – possibly controlled by a “turnover threshold”.
- Sellers of high volume/low margin products such as greengrocers, bakers, butchers.
- Online shopping.

## 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 proceeds from 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. In setting the charge the Department will wish to take account of the possible effect of displacement (where consumers may substitute a cheaper reusable bag for a single use bag).

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

#### Summary of Responses (45 responses received)

Suggestions for an appropriate charge fell into a range from 2p up to 30p. Two respondents commented that no charge was appropriate and a further respondent suggested that the charge should be as high as possible.

The most popular suggestion (23 responses) was that a charge of 5p (or less) would be sufficient to shift customer behaviour and substantially reduce carrier bag usage. The majority of retailers responding fell into this category.

Those suggesting a charge of around 10p also felt that this charge would be sufficient to change consumer behaviour and therefore to effect a reduction in carrier bag usage.

There was less support for a higher charge of 15 to 30p. Some respondents suggested 20p, broadly in line with the charge in ROI - adding that the Department should regard the levy as an environmental initiative rather than a revenue raiser.

## WHICH BAGS?

The Department's regulations will need to specify the types of bags to be subject to the charge. The consultation document expressed the Department's preference that the charge should apply to all single use carrier bags – rather than only plastic bags.

The Department also needs to consider whether the regulations should provide for any exemptions from the charge. In Wales, the regulations include a number of exemptions from the charge on issues such as hygiene and patient safety and confidentiality (bags which are used solely for NHS prescriptions).

Finally, the consultation document makes the case for extension of the charge to cover certain categories of reusable bags. This would address the scenario where consumers opt for cheap reusable bags instead of single use carrier bags and discard them in the same way. However such a change will require new primary legislation. The Minister has now sought and received Executive approval to bring forward a new Bill. Until this is in place, the levy will be confined to single use carrier bags.

### 3. Are there any types of carrier bags which should be exempt from the charge? If so, on what grounds?

#### Summary of Responses (55 responses received)

**The majority of respondents to this question felt that certain types of carrier bags should be exempt from the levy.**

Several respondents felt that the Department should replicate all the exemptions included in the Welsh regulations.

Other respondents suggested specific exemptions on grounds such as patient confidentiality (items supplied on prescription), hygiene and food safety and the protection of both goods and consumers. Very small bags, mail order/carrier packaging, previously used bags and reusable bags were also put forward for exemption. These would all be consistent with exemptions included in the Welsh regulations.

Several other exemptions, which are not included in the Welsh regulations, were suggested:

- biodegradable bags and caddy liners
- bags used to contain hazardous substances like bleach and other cleaning fluids
- paper bags
- bags used for home shopping deliveries

Other respondents felt that bags for promotional items etc, where no sale has taken place, **should not be exempt** - while a number of respondents felt there should be no exemptions at all.

There was a limited response (15 responses) to the Department's specific proposal to explore the option of a charge on all single use carrier bags – not just plastic bags. The majority of those who expressed a view (14 responses) were in favour of the charge being applied to all bags designed for single use.

#### **4. Do you think that multiple use carrier bags should be included in any levy?**

Summary of Responses (43 responses received)

**The majority of respondents who expressed a view were against including multiple use carrier bags in the levy (28 responses).**

The most common reason cited was that their inclusion would undermine the charge as an environmental measure; decisions on the levy should be centred on the objective of reducing unnecessary waste rather than raising revenue for the Department.

However there were a significant number of respondents who were in favour of the proposal (15 responses).

## RECORDS AND PUBLICATION

The Climate Change Act 2008 enables the Department to make regulations requiring sellers to keep records of the 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.

Final decisions have yet to be taken, however in relation to the publication of records, the Department's initial view is that publication may not be required, given that all proceeds from the bag charge will be returned to the Department. Nevertheless, sellers will have to supply their records on request.

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

#### Summary of Responses (45 responses received)

**The view of the majority of respondents (27 respondents) was that reporting requirements should be kept to the absolute minimum in order to keep the additional regulatory burden as light as possible.**

In relation to the data to be recorded, several respondents felt that basic stock control records would be sufficient to provide the information necessary to establish bag usage. Other responses suggested various combinations of the opening and closing stock of bags, the number of bags purchased by the seller, the number of bags sold and the amount of revenue raised and paid to the Department.

A number of general comments were also made:

- NI should have the same reporting requirements as in Wales to minimise the burden on retailers

- VAT should not be levied on the charge, again, to reduce the reporting burden
- the administrative impact on charity shops should be examined
- the proposal goes against the Government's principle of reducing Red Tape for business
- sellers should be allowed to recover reasonable costs incurred in administering the levy
- the Department's proposal would disproportionately affect smaller businesses that would be least able to absorb the costs; small businesses should be exempt, either from any administrative requirements or the requirement to submit records.

## 6. Should sellers have to publish their records?

### Summary of Responses (41 responses received)

**The vast majority of respondents to this question (32 responses) felt that it should not be necessary for sellers to publish their records.**

A small number of respondents felt records should be published but some felt that the Department, rather than the seller, should publish the information.

None of those asking for records to be published came from the retail sector.

## ADMINISTRATION OF THE NEW ARRANGEMENTS

The enabling legislation gives the Department powers to appoint an agent to administer and enforce the new arrangements. This can include monitoring the collection of the charge and imposing civil sanctions (see page 11) on those sellers who do not comply with their requirements under the regulations. The Department has not yet taken a decision on who should be appointed as its agent (or agents) to administer the Northern Ireland scheme.

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

#### Summary of Responses (40 responses received)

**A significant number of respondents to this question (18 responses) did not suggest any particular organisation to administer the scheme.**

Of those organisations suggested, the most popular were the Department of the Environment and HM Revenue & Customs (9 responses each).

Other organisations proposed were the Trading Standards Branch of the Department of Enterprise, Trade and Investment and an independent not for profit organisation such as Business in the Community.

Several respondents from the local government sector voiced concerns, on resource grounds, about any proposal that the charge should be administered and enforced by local councils.

It was also suggested that any agent appointed should be an organisation already in regular and established contact with the majority of retailers.

Others commented that administrative arrangements should be as streamlined as possible, in order to keep costs to a minimum.

## ENFORCEMENT AND SANCTIONS

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 £5,000. 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).

While final decisions have not yet been taken, in establishing any enforcement arrangements, the Department is limited to a civil sanctions regime under the Climate Change Act as outlined above.

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

#### Summary of Responses (36 substantive responses)

Several respondents (8 responses) merely stated that they were content with the proposals.

Other views that were expressed included:

- The Department should adopt a sensible and proportionate approach to enforcement – with an emphasis on supporting and educating retailers.
- There must be intensive publicity of the levy and the reasons for its introduction, along with the production of detailed

guidance and information packs for retailers.

- A twelve month 'honeymoon' period should be introduced from the implementation date to allow consumers and retailers time to get used to the changes.
- Compliance should be via complaint-led enforcement and this should be made explicitly clear in the legislation.

Specific views on civil sanctions included the following:

- Discretionary requirements may be the best way of ensuring that fines levied on large and small businesses respectively are proportionate to their respective level of business.
- Fixed monetary penalties should only be issued in the case of repeated or serious breaches of the legislation.
- The proposed level of fine for non-compliance is disproportionate to any breach and there should be a £5,000 cap on fines.
- Penalties must be commensurate with the amount gained from any breach.
- Penalties should be focused on the company rather than on an individual employee.

There were also a number of comments on the cost of enforcement:

- Enforcement may be very difficult and costly if the current proposals are implemented.
- The cost of implementation of the scheme is likely to be significant and the revenue collected will not justify such expenditure.

There were very few suggestions on which body should enforce the new arrangements, but those put forward were:

- Trading Standards, as enforcement must be operated centrally to ensure consistency across NI.
- DOE (or its agencies).
- Local Authority Environmental Health Officers (although other respondents objected to this suggestion on resource grounds).

## **RESULTS OF INITIAL EQUALITY SCREENING, HUMAN RIGHTS ASSESSMENT AND RURAL PROOFING**

### **Equality of Opportunity**

Section 75 of the Northern Ireland Act 1998 places a duty on public authorities to have due regard to promote quality 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 1998. 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. This position will be kept under review.

### **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 Responses (14 substantive responses)

The following views were suggested by a small number of respondents:

- The bag levy would have a disproportionate adverse effect on low income groups and in particular the elderly - especially if no exemption from the charge was made for pharmacy medicines etc.
- There is likely to be a disproportionate impact on micro retail businesses. The key importance of small retail businesses in rural areas was particularly stressed - a Small Business Impact Assessment should be undertaken in advance of any proposals being introduced.
- The charge would hurt high street retailers due to the likely effect on impulse purchases as consumers would be less likely to be carrying reusable bags than if they were shopping in a supermarket.
- A full regulatory impact assessment should be completed examining the unique economic and social impacts of the proposals and the attitude of consumers to such a change.

## **GENERAL COMMENTS**

### **OBJECTIVES**

Some suggested that the Department's cited objectives - reducing carrier bag usage and raising revenue - were mutually incompatible. The levy was perceived by these respondents to be primarily a revenue generating initiative.

Some such respondents did acknowledge that the charge was a symbolic measure designed to have a wider impact in promoting more responsible waste management behaviour.

### **VOLUNTARY APPROACH**

A number of respondents advocated the voluntary approach to carrier bag reduction, without the need for statutory legislation.

### **CONSISTENCY ACROSS UK REGIONS / IRELAND**

The view was expressed that there should be some degree of consistency in carrier bag levy schemes throughout the regions of the UK and with the Republic of Ireland. It was suggested that this would promote better understanding of the scheme and make compliance easier for businesses operating inter-regionally.

## **COST OF IMPLEMENTATION**

Several respondents felt that the Department's proposal that retailers could not recover the implementation costs would unfairly penalise businesses during a difficult financial period.

## **REGULATORY BURDEN / RED TAPE**

A number of respondents, representing small retail businesses, suggested that the introduction of a charge was a disproportionate response to the problem - imposing a significant administrative burden on retailers for limited environmental gain.

A suggestion was also made that the large multinational retail chains are largely responsible for the carrier bag problem – the burden that will be placed on small businesses to achieve compliance is 'wildly disproportionate' to their role in the problem.

There was also a view that the legislation would harm independents and force trade towards larger multiples, who were better placed to cope, with their better facilities (on site car parking), IT systems etc.

## **SCOPE OF THE CHARGE**

A number of suggestions were made in relation to the scope of the charge. It was suggested that:

- The levy should be extended to plastic/glass bottles and drink cans.
- As carrier bags only form a small part of waste stream, the best way to reduce waste is to introduce charging for household waste.
- More needs to be done to address over-packaging of goods in general.

- In parallel with the levy there should be encouragement for the use of recyclable and reusable bags.

### **CHARITY SHOPS**

The charity retail sector expressed support for the environmental objectives of the NI Executive. The comment was made that charity shops operate at the top end of the waste hierarchy, reusing and recycling materials which may otherwise go to landfill. In this way charity shops support environmental objectives and contribute to reducing carbon emissions in Northern Ireland.

Given this context, the sector expressed the hope that in the implementation of the single use carrier bag charge, the Northern Ireland Executive would look to support charity shops in their activities. (see also response to Q1)

### **LEAD IN TIME TO COMMENCEMENT OF CHARGING**

Some respondents raised issues surrounding the implementation date for the charging scheme.

Several pointed out that retailers need to start planning for the introduction of the charge – including ordering their stock of carrier bags – and there needed to be some certainty on the proposals before such planning could begin.

18 months was cited as the absolute minimum lead in to the levy implementation date.

### **USE OF REVENUE**

A number of respondents commented on the revenue raised by the charge. They felt that:

- any revenue generated should be spent on local community projects, environmental schemes and/or initiatives;
- funds raised should be used to monitor new and existing waste streams and to assist in the development of an evidence base for future work.

Furthermore there were a number of respondents who expressed the view that funds raised through this scheme must not be used as a replacement for DOE budget shortfalls.

### **PUBLICITY / COMMUNICATION**

Several respondents highlighted the need for an extensive public awareness campaign to educate the public on the operation of the legislation and the rationale behind it.

A number of respondents also felt that detailed guidance for businesses should be produced prior to the introduction of the levy.

### **ALTERNATIVE CHARGING SCHEMES**

It was suggested that the charge should be applied at source on the bag manufacturer, thus reducing the burden on the small retailer.

Another suggestion was to licence all premises that wish to issue bags based on their size or rateable value – and then charge them through the rates system. To compensate for the licence fee, the minimum price set for bags would be retained by the retailer.

It was also suggested that all waste carrier bags should be collected and recycled through green bin/kerbside recycling infrastructure.

## **IMPACT ON EMPLOYMENT**

- A small number of respondents commented that the impact on bag manufacturers does not appear to have been given any consideration and there is no estimate of potential job losses.
- It was also suggested that the ratio of the cost of a bag to the value of a purchase was a more significant concern for customers. In some smaller retail businesses (including fast food outlets) already operating on a very low margin, any fluctuation in revenues or increase in costs could mean failure rather than survival, resulting in a significant increase in unemployment.

## RESPONDENTS

The Department received 64 substantive responses to the Consultation:

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|---------------------------------------|
| Antrim Borough Council                |
| arc21                                 |
| Asda                                  |
| Association of Convenience Stores     |
| Barclay, Tony                         |
| Boal, D                               |
| British Hospitality Association       |
| Brow Packaging                        |
| Business in the Community             |
| Cairnduff, Eileen                     |
| Castlereagh Borough Council           |
| Charity Retail Association            |
| Cirrus Plastics                       |
| Coleraine Borough Council             |
| Coleraine Town Centre Partnership Ltd |
| Confederation of British Industry     |
| Consumer Council NI                   |
| Cousins, Robert                       |
| Craigavon Plastics Ltd                |
| Derry City Council                    |
| Disability Action                     |
| Down District Council                 |
| Federation of Small Businesses        |
| Ghaie, Sunny T/A Waterside Superstore |

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| Groundwork NI   |
| Larne Borough Council                                 |
| Lewis, Glynis   |
| Lisburn City Council                                  |
| Local Authority Recycling Advisory Committee          |
| Londonderry Chamber of Commerce                       |
| Lurgan Chamber of Commerce & Industry                 |
| Marine Conservation Society                           |
| Marks & Spencer                                       |
| McDonald's Restaurants Ltd                            |
| Moore, Stephen  |
| National Federation of Retail Newsagents              |
| National Pharmacy Association                         |
| Newtownabbey Borough Council                          |
| NIPAK   |
| Northern Ireland Chamber of Commerce                  |
| Northern Ireland Environment Link                     |
| Northern Ireland Independent Retail Trade Association |
| Northern Ireland Local Government Association         |
| Northern Ireland Retail Consortium                    |
| Omagh District Council                                |
| Packaging and Films Association                       |
| Pharmacy Professional Forum of Northern Ireland       |
| Portadown Chamber of Commerce                         |
| Rainey, Donna / Archibald, Selina                     |
| RFD Beaufort  |
| Royal Society for the Protection of Birds             |
| Sayers, Allen   |
| Sinn Féin   |

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| Southern Waste Management Partnership (SWaMP2008) |
| Symphony Environmental Technologies plc           |
| Tesco   |
| Topping, Michael                                  |
| Turner, R   |
| Ulster Chemists' Association                      |
| Wilson, Amanda                                    |
| Wilson, Gerald                                    |
| Windmill Restaurants t/a Burgerking               |
| Women's Forum NI                                  |
| Zeus Packaging (NI) Ltd                           |