

# Single Use Plastic Bags Bill

[AS INTRODUCED]

## CONTENTS

### *The levy*

1. Levy on single use plastic bags
2. Central Environmental Fund
3. Suppliers' duties etc.

### *Functions of district councils*

4. Functions of district councils

### *Offences and penalties*

5. Offence of not charging levy
6. Offence of obstructing authorised officers
7. Offences by bodies corporate and partnerships
8. Civil recovery

### *General*

9. Regulations and orders
10. Interpretation
11. Commencement
12. Short title

## SCHEDULES:

- |            |  |
|------------|--|
| Schedule 1 | Application of Central Environmental Fund monies |
| Schedule 2 | Powers of authorised officers                    |



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# B I L L

TO

Impose a levy on suppliers of single use plastic bags; to provide for the application of levy receipts; and for connected purposes.

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

## *The levy*

### **Levy on single use plastic bags**

5 **1.**—(1) For the purposes of this Act, a “plastic bag” means a bag made wholly or in part from plastic and a “single use plastic bag” means a plastic bag having such intended uses and other characteristics as may be specified in regulations made by the Department.

(2) Regulations made under subsection (1) may provide that single use plastic bags are not to include—

10 (a) any bag which is used to contain unpackaged food for human consumption of such description as the Department may prescribe in regulation; or

(b) any bag used for packaging goods which are sealed before they are offered for retail or supply.

15 (3) A supplier who supplies a single use plastic bag to a customer for use at the supermarket, service station or other retail outlet where the single use plastic bag is supplied shall charge the customer the levy.

(4) The levy shall be 15 pence per single use plastic bag or such amount as may be prescribed by the Department by order.

20 (5) The Department shall from time to time review the operation of the levy to determine whether an order should be made under subsection (4).

**Central Environmental Fund**

2.—(1) The Department shall establish and maintain a fund to be known as the Central Environment Fund (the “Fund”).

(2) The Department shall pay all monies it receives from suppliers under section 3(1)(a) and any monies it receives as a result of civil proceedings under clause 4(3) into the fund. 5

(3) The Department shall keep proper accounting records for the Fund and shall for each financial year prepare accounts in accordance with directions given by the Department of Finance and Personnel.

(4) The directions which the Department of Finance and Personnel may give under subsection (2) include, in particular, directions as to— 10

(a) the information to be contained in the accounts and the manner in which it is to be presented;

(b) the method and principles in accordance with which the accounts are to be prepared; and 15

(c) the additional information (if any) that is to accompany the accounts.

(5) The Department shall, as soon as practicable after the end of any financial year, submit the accounts prepared by it for that year to the Comptroller and Auditor General for Northern Ireland.

(6) The Comptroller and Auditor General for Northern Ireland shall— 20

(a) examine and certify any accounts submitted under subsection (5); and

(b) lay before the Assembly a copy of the certified accounts.

(7) The Department may apply Fund monies to defray, in whole or in part, expenses incurred on or after the establishment of the Fund in connection with the administration costs in respect of the Fund. 25

(8) The Department shall apply Fund monies to reimburse district councils in respect of expenses incurred in exercising their functions under this Act.

(9) Schedule 1 applies in respect of the application of Fund monies.

(10) The Department may by order delegate the management and control of all or part of the Fund and any other functions under this section to a specified person or body and functions so delegated shall be performable by the person or body. 30

(11) For the purposes of this section and Schedule 1 (except in sub-paragraph (j) of paragraph 1 and paragraph 3) references to the Department shall be construed as including any person or body specified in an order made under subsection (10). 35

**Suppliers' duties etc.**

3.—(1) A supplier shall—

(a) provide each customer to whom single use plastic bags are supplied with an invoice or receipt itemising the levy;

(b) pay the levy to the Department within (28 days) of the relevant quarter day; 40

(c) keep full and accurate records of the number of—

## *Single Use Plastic Bags*

- (i) single use plastic bags supplied to customers; and
  - (ii) the levy collected in respect of each single use plastic bag,
- in such terms and for such time as the Department may by regulations require;
- (d) submit a return in respect of the supply of single use plastic bags in such form as the Department shall by regulations prescribe within (28 days) of the relevant quarter day to—
- (i) the Department or such person or body as may be specified in an order made under section 2(9); and
  - (ii) the relevant district council.
- (2) Where a supplier has failed to collect or pay the levy, or any part of it, in accordance with subsection (1), the amount not collected or paid shall carry interests at the rate of 2 per cent higher than the Bank of England base rate for each month or part of a month from the relevant quarter day.

### *Functions of district councils*

#### **15 Functions of district councils**

**4.**—(1) A district council shall be responsible for monitoring the operation of the levy in its district and enforcement of the supplier's duties under section 3(1).

(2) A district council may recover from a supplier within its district which has failed to collect the levy or pay it to the Department in accordance with paragraph (b) of section 3(1) the sum which should have been collected or paid (together with interest payable under section 3(2)) as a simple contract debt in a court of competent jurisdiction.

(3) A district council shall pay any monies recovered as a result of civil proceedings to the Department.

(4) A district council shall authorise in writing at least one person and such other number of persons as it considers necessary or expedient to monitor compliance with the exercise of powers under this Act.

(5) A person so authorised is referred to in this Act as an "authorised officer".

(6) Schedule 2 has effect in relation to the powers of authorised officers.

(7) The Department may by regulations make further provision as to the exercise of the powers of authorised officers.

(8) A district council shall publish annually a report on its performance under this Act.

(9) A district council shall submit a copy of the report to the Department.

### *35 Offences and penalties*

#### **Offence of not charging levy**

**5.**—(1) A supplier who fails to—

- (a) charge the levy in accordance with section 1; or
  - (b) comply with any of the requirements in section 3,
- is guilty of an offence.

(2) A supplier guilty of an offence under this Act is liable on summary conviction to a fine not less than level 2 on the standard scale and not exceeding level 5 on the standard scale.

(3) It is a defence for a supplier to prove that the supplier (or any employee or agent of the supplier) took all reasonable precautions and exercised all due diligence to avoid its commission. 5

#### **Offence of obstructing authorised officers**

6.—(1) A person who wilfully delays or obstructs an authorised officer in the exercise of a power under this Act is guilty of an offence.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale. 10

#### **Offences by bodies corporate and partnerships**

7.—(1) For the purposes of this Act, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words “the liability of whose member is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with that member’s functions of management as if that member were a director of the body corporate. 15

(2) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall also be guilty of that offence and be liable to be proceeded against and punished accordingly. 20

#### **Civil recovery**

8.— In any proceedings for the recovery of the levy as a debt, it shall be presumed, unless the contrary is proved, that the number of single use plastic bags supplied to customers in a particular period was equal to the number of single use plastic bags acquired by the supplier for the purpose of such supply in that period. 25

#### *General*

#### **Regulations and orders**

9.—(1) Regulations and orders under this Act shall be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979. 30

(2) Subject to subsection (3), regulations and orders made under this Act shall be subject to negative resolution.

(3) An order made under section 1(4) shall not be made unless a draft has been laid before and approved by resolution of the Assembly. 35

#### **Interpretation**

10.— In this Act—

“authorised officer” has the meaning given by section 4;

“Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets, or
- 5 (b) where an order under section 19 of the Bank of England Act 1998 (c. 11) is in operation, any equivalent rate determined by the Treasury under that section;
- “customer” includes a person to whom goods are sold or supplied by a supplier (whether or not for a price) in the course of business;
- 10 “Department” means the Department of the Environment;
- “Fund” has the meaning given in section 2;
- “levy” means the charge on customers in respect of the supply to them of single use plastic bags;
- “plastic bag” has the meaning given in section 1;
- 15 “relevant quarter day” means whichever of 25 March, 25 June, 25 September and 25 December immediately follows the date of supply of a single use plastic bag; and
- “single use plastic bag” has the meaning given by section 1;
- 20 “supplier” means a supplier of goods at a supermarket, service station or other retail outlet.

### **Commencement**

11.—(1) Sections 1, 2, 3 and 4 and Schedule 1 (in so far as these provisions provide for the making of regulations or orders or the issue of guidelines by the Department) and sections 9 and 10, this section and section 12 come into

25 operation three months after the date of Royal Assent to this Act.

(2) The remaining provisions of this Act and sections 1, 2, 3, 4 and Schedule 1 (in so far as these provisions do not provide for the making of regulations or orders or the issue of guidelines by the Department) come into operation on such day or days as the Department may by order appoint.

### 30 **Short title**

12.— This Act may be cited as the Single Use Plastic Bags Act (Northern Ireland) 2011.

SCHEDULES

Section 2.

SCHEDULE 1

APPLICATION OF CENTRAL ENVIRONMENTAL FUND MONIES

1. The Department may from time to time pay out of the fund such amounts as the Department considers appropriate for any or all of the following purposes, namely— 5
- (a) to assist, support or promote any programmes or schemes established in Northern Ireland for the prevention or reduction of waste or the establishment of such programmes or schemes; 10
  - (b) to assist the establishment, equipping and, where appropriate, the operation of waste re-use and recycling activities in Northern Ireland, or recovery activities in respect of any specified class of waste; 10
  - (c) to assist, support or promote research and development carried out in Northern Ireland with respect to any aspect of waste management; 15
  - (d) to assist, support or promote the production, distribution or sale of products of a particular class in Northern Ireland, being products which possess characteristics (whether characteristics of an inherent nature or related to the process by which they are manufactured) likely to render them less harmful to the environment than other products falling within the same class; 20
  - (e) to assist, support or promote the development of initiatives by producers in Northern Ireland to prevent or reduce waste arising from activities carried on by them; 25
  - (f) to facilitate or assist local projects carried out in Northern Ireland the purpose of which is to improve the quality of the environment in so far as it affects a particular local community or communities; 25
  - (g) to promote awareness of the need generally to protect the environment and, in particular, to assist, support or promote campaigns in Northern Ireland which are intended to foster such awareness; 30
  - (h) to promote or support education and training which would facilitate the achievement of the objectives of campaigns of the description in subparagraph (g); 30
  - (i) to assist, support or promote initiatives undertaken by community groups, environmental groups, or other like persons with respect to the protection of any aspect of the environment; 35
  - (j) such other purposes with respect to the protection of the environment as the Department may by order specify. 35
2. Except for the purposes of subsection (8) section 2, the Department may not apply Fund monies directly to a district council unless the district council is part of a consortium, group, body or agency formed for any of the purposes of paragraph 1 of the Schedule. 40



3. Without prejudice to the preceding paragraphs, payments made out of the Fund shall be made according to such principles as may be prescribed in guidelines issued by the Department.

SCHEDULE 2

5 POWERS OF AUTHORISED OFFICERS

*Powers*

1. An authorised officer may—

- (a) require any supplier, and any employee of a supplier, to produce all records and documents kept for the purposes of the Act;
- 10 (b) require any supplier, and any employee of a supplier, to give all reasonable assistance, including information and explanations about the acquisition, retention, supply and disposal of single use plastic bags;
- (c) at all reasonable times, enter premises in which the officer reasonably believes there to be single use plastic bags held for provision to customers or records relating to such bags and carry out there such search and investigation, and take such particulars relevant to compliance with the Act, as the officer may consider to be proper; and
- 15 (d) remove and retain, for such period as may be reasonable for further examination or copying or for the purposes of any proceedings in relation to the levy, all records, and documents kept for the purposes of the Act.
- 20

2. In exercising any of the above powers the authorised person may be accompanied by such other persons as may be necessary.

3. Where information which is to be produced under this Schedule is held in a non-legible form the authorised officer may require the person holding the information to produce it in a permanent legible form.

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*Restrictions and safeguards*

4. The powers of authorised officers under this Act are to be exercised only for the purpose—

- (a) of ascertaining whether a person is complying with the Act; or
- 30 (b) of bringing, or preparing for, proceedings for non-compliance.

5. An authorised officer shall, if required to do so, produce written evidence of his or her authority.

6. If exercising the powers conferred by paragraph 1(a) or 1(b) separately from the power of entry conferred by paragraph 1(c), the authorised officer shall serve a notice setting out the time and place where the requirement is to be met, and the form and manner in which any assistance is to be provided.

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7.—(1) The authorised officer shall give at least 24 hours notice of intention to exercise the powers conferred by paragraph 1(c) or (d).

(2) The notice must be given to the occupier of the premises where the power is to be exercised.

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(3) Sub-paragraphs (1) and (2) do not prevent the authorised officer from exercising the powers conferred by paragraph 1(c) or (d) without notice if a warrant has been obtained under paragraph 8.

(4) The powers conferred by paragraph 1(c) or (d) may not be exercised by force unless a warrant has been obtained under paragraph 8. 5

8.—(1) A lay magistrate may grant a warrant for the exercise of any power conferred by paragraph 1(c) or (d) if satisfied, by evidence on oath, that there are reasonable grounds for the exercise of the power in relation to specified premises and that any of the following conditions is satisfied—

- (a) that the exercise of the power in relation to the premises has been refused; 10
- (b) that such refusal is reasonably anticipated;
- (c) that the premises are unoccupied;
- (d) that the occupier is temporarily absent from the premises; or
- (e) that a notice of intention to exercise the power in relation to the premises would defeat the object of the exercise of the power. 15

(2) A lay magistrate shall not issue a warrant by virtue of only sub-paragraph (1)(a) or (b) unless also satisfied that notice of intention to apply for the warrant was given to the occupier of the premises or that the giving of such notice would have defeated the object of the exercise of the power.

(3) A warrant under this paragraph continues in force until the purposes for which the warrant was issued have been fulfilled or the expiry of such period as the warrant may specify. 20

9. An authorised officer who has entered premises by force shall leave the premises in as secure a condition as they were in before they were entered.

10.—(1) An authorised officer shall, if requested— 25

- (a) promptly provide a receipt for any records or documents removed;
- (b) grant the owner of the records or documents removed, or an agent of the owner, access to the records or documents removed and a reasonable opportunity, if necessary under supervision, to take copies of the items removed; and 30
- (c) provide free of charge a copy of any document removed if the copy is reasonably required for business reasons.

(2) An authorised officer need not grant access under sub-paragraph (1)(b) if the officer reasonably considers that to do so would prejudice the investigation.

*Evidence* 35

11. A copy or photograph of a document produced to or seized by an authorised officer under this Act, and certified as a true copy by the authorised officer, is admissible in evidence to the same extent as the original.