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Assembly

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Carrier Bags Bill (2013)

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The following paper gives an overview of the Carrier Bags Bill as introduced to the Assembly on the 3rd June 2013. It considers the steps used to increase the Carrier Bags levy to 5 pence and extend it to cover low cost reusable bags. It also gives a summary of other bag levies and bans used in other countries.

Key Points

- Under the Climate Change Act 2008, the Northern Ireland Executive agreed to introduce a charge for single use carrier bags in Northern Ireland that would benefit the environment by reducing bag consumption, and generate revenue to be fed into environmental projects.
- It was agreed a two phased approach would be used, with the first phase being the introduction of the Single Use Carrier Bags Charge Regulations (Northern Ireland) 2013.
- The Regulations required that from the 1 April 2013 all single use carrier bags would be charged a levy of 5 pence to be collected by the Department of Environment from sellers.
- However, exemptions to the levy include bags for patient confidentiality (e.g. prescription bags), hygiene, food safety and the protection of goods and consumers. It also allows exemptions for very small bags, mail order packaging and previously used bags.
- This paper is concerned with phase 2, which is the production of a Carrier Bag Bill to increase the levy on single use carrier bags to 10 pence per bag from April 2014. It also would see this charge *extended* to include low cost reusable bags.
- According to the 2011 consultation a 10 pence levy appeared to have the most efficient impact in terms of the environment and economy. However it was agreed that a 5 pence levy would be used for a year as an introductory charge.
- In order to avoid lower cost reusable bags becoming a replacement for single use bags once the levy increases to 10 pence, the Carrier Bag Bill extends the levy to include low cost reusable bags (where high cost reusable bags will be exempt)
- The Carrier Bag Bill also:
 - extends the Department's ability to make specific provision for certain sellers i.e. exemptions depending on full-time employee numbers;
 - provides for changes to record keeping and payment arrangements including a requirement to pay interest to the Department in the event of late payment of the proceeds of the minimum charge;
 - strengthens the Department's enforcement powers; and
 - requires the Department to carry out a review of the carrier bag charging arrangements.
- Consultations and Impact Assessments etc. were carried out before the introduction of the 5 pence levy; therefore it may be unclear how they may directly relate to the increase in levy and the extension to reusable bags.
- The map and table on pages 12 and 15 gives an indicative overview of the distribution of levies and bans elsewhere.

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Introduction

The Northern Ireland Executive agreed to introduce a charge for single use carrier bags in Northern Ireland. The Assembly passed the first phase of the process known as the Single Use Carrier Bags Charge Regulations (Northern Ireland) 2013, made under the Climate Change Act 2008, which introduced a minimum charge on single use carrier bags. After further discussion it was agreed a second phase would be introduced a year later to increase the levy and extend it out to re-usable bags. The following section gives an overview of the phased approach with focus on the second phase which involves the introduction of the Carrier Bag Bill.

Phase 1

Under the Climate Change Act 2008, phase 1 involved the introduction of the Single Use Carrier Bags Charge Regulations. These alone introduced a 5 pence levy on single use carrier bags from April 2013. The legislation requires that sellers must pass the cost of the levy onto their customers and must forward the revenue generated to the Department of Environment (DOE) for environmental projects.

The proposals are that the charge should apply to all single use carrier bags and not be confined to plastic bags. This means the charge applies to single use carrier bags made of paper, plant-based material or natural starch, and used for purchased products such as clothing and groceries etc. It also includes goods that are delivered in single use carrier bags from internet purchases that have been dispatched from Northern Ireland. Currently retailers may charge more than 5 pence; however, only 5 pence from the sale of each bag must go to the DOE.

Exemptions

However, there are exemptions to the levy. Similar to the Welsh model¹, exemptions include bags for patient confidentiality (e.g. prescription bags), hygiene, food safety and the protection of goods and consumers. It also allows exemptions for very small bags, mail order packaging and previously used bags.

According to the DOE's Guidance² on the Carrier Bag Regulations the following carrier bags are exempt from the levy:

- bags that are re-used;
- bags used to contain take-away hot food and hot drinks. Other items such as cold drinks and confectionary products can be placed in the bag also;

¹ <http://www.carrierbagchargewales.gov.uk/retailers/bagsnotincluded/?lang=en>

² [Guidance on the Single Use Carrier Bags Charge Regulations \(Northern Ireland\) 2013 \(PDF 348 KB\)](#)

- bags used solely to contain certain items such as unpackaged food i.e. fruit, vegetables and baked goods, seeds and bulbs, axes/ knives/ razor blades, goods contaminated by soil;
- bags used to carry goods purchased in an airport once going through security;
- bags of a certain size used solely to contain packaged uncooked meat or fish;
- certain types of small bags i.e. flat paper bags for greeting cards, pick and mix, some over the counter medicines such as painkillers and cough mixtures, and flat plastic bags for hardware and haberdashery etc.;
- specialist bags such as mail order dispatch and courier bags, bags for live aquatic animals i.e. fish; and
- bags used for promotional or free items.

The Guidance also states that the levy does not apply to persons who occasionally sell their own possessions at car boot sales, internet sales or auction sites. In these circumstances goods are considered as not being sold “in the course of trade or business” and therefore are not subject to a levy.

Phase 2

Phase 2, for which this paper is concerned with, sees the introduction of a Carrier Bag Bill to increase the levy on single use carrier bags to 10 pence per bag from April 2014. It also would see this charge *extended* to include low cost reusable bags.

According the Explanatory and Financial Memorandum, the Bill proposes to make other amendments to the Climate Change Act 2008 which would:

- extend the Department’s ability to make specific provision for certain sellers i.e. exemptions depending on full-time employee numbers;
- provide for changes to record keeping and payment arrangements including a requirement to pay interest to the Department in the event of late payment of the proceeds of the minimum charge;
- strengthen the Department’s enforcement powers; and
- require the Department to carry out a review of the carrier bag charging arrangements.

Why the increase in levy?

The 2011 consultation on policy proposals for single use carrier bags³ discussed options for the introduction of a levy that would bring both economic and environmental benefits to Northern Ireland, by generating revenue while at the same time reducing

³ 2011 Consultation ‘Proposals for a Charge on Single Use Carrier Bags’
http://www.doeni.gov.uk/index/protect_the_environment/waste/carrier_bag_charging_2011_policy_consultation.htm

bag consumption. According to the consultation, economic modelling based on similar bag charges/levies in other jurisdictions suggests that a 5 pence levy would reduce single use carrier bag consumption by around 88% and generate around £2.4m gross revenue.

However, it was explained that there becomes a point at which the price of the levy may reduce bag consumption but not generate much revenue. The point of the levy is to benefit the environment while generating enough revenue to ensure revenue collection costs and enforcement costs are covered with the remaining amount going towards environmental projects. This can be explained by the fact that as the levy increases to the point where there is little difference between single use bags and reusable bags, the Department is of the opinion that people will opt for the reusable bag which can be re-used without any cost. While this may benefit the environment by reducing consumption due to more people reusing bags rather than replacing them, fewer transactions may be made resulting in less revenue generated. The consultation explains this by looking at the effect of a 15 pence levy which was estimated to result in a reduction in the consumption level of up to 98%, but a generation of revenue of only £1.2m which in the Department's opinion would be insufficient to cover collection and enforcement costs.⁴

Again the 2011 consultation looked at a 10 pence levy which appeared to have the most efficient impact in terms of the environment and economy. Modelling suggested that a 10 pence levy could boost revenue to around £5.5m with a drop in single use carrier bag consumption of around 90%. For this reason, the new Bill seeks to increase the levy to 10 pence after giving the public a year at a lower introductory levy of 5 pence.

Why the roll out to include reusable bags?

The 2011 consultation stated that the "*application of the levy to particular reusable bags would require primary legislation.*" The DOE justifies this extension on environmental grounds, to avoid lower cost reusable bags becoming a replacement for single use bags once the levy increases to 10 pence. The basis for this is the view that the environmental impact of these bags being used once and thrown away, would be greater than that of single use bags because reusable bags are typically made of heavier gauge material, therefore taking longer to breakdown and requiring more energy in the production process.⁵

⁴ Ibid (p.16-18)

⁵ Ibid (p.18-20)

Further exemptions

High cost re-usable bags:

Higher cost reusable bags will be exempt from the levy. The Department intends that a price threshold (the cost of the bag without the levy) will be established, therefore bags priced above it will be exempt, those below it will be considered low cost reusable and therefore subject to the levy.⁶

Sellers:

Existing powers exempt sellers in terms of “turnover”, and the new regulations add to this by allowing the number of full-time employees to be a factor for exemption. This will allow the Department to exempt certain businesses. However, the Department has no plans to use this power as current policy states that the levy should apply to all sellers. Therefore this is described by the Department as a ‘future proofing’ provision⁷.

Payments

The Department can specify the interval payment of the charge by sellers, and on top of this, can impose interest payments if deadlines are not kept.

Sellers must keep records of their payments to the Department which must be made available to aid the Department with enforcement and routine monitoring, which includes inspection, retention and copying of documents and routine compliance checking. The Department can also take enforcement action without the need for a ‘belief of failure to comply’ all of which will be provided under regulations.

Civil Sanctions

The requirement to review the charging arrangements within three years of the provisions coming into operation remains in place, however, the Bill removes the requirement to lay the review before the Assembly; instead this is to be fulfilled by the Department itself.

Avoidance

The regulations ensure that customers and/or sellers cannot avoid the levy through claiming that the bags are for future use.

⁶ EFM Carrier Bag Levy Bill (2013)

⁷ *ibid*

Consultations

The Department of Environment carried out two consultations:

- One in 2011 on the initial proposals for the introduction of a charge , which introduced the concept of a phased approach; and
- One in 2012 on the draft regulations for single use carrier bags.

The consultation carried out in April 2012 on the ‘Draft Single Use Carrier Bags Charge Regulations (2012) focused on the first phase of the scheme with the introduction of a 5 pence levy for single use carrier bags. There has not been a similar consultation released in relation to the second phase. However the 2011 consultation explored the idea of increasing the levy to 10 pence and extending it to cover low cost reusable bags by April 2014, giving respondents the opportunity to comment on the proposal then.

In relation to the charge, the 2011 consultation found that there was broad support for a 10pence levy⁸. On the other hand, the 2011 consultation found that the majority of respondents who expressed a view were against the inclusion of reusable bags within the scope of the levy, mainly on environmental grounds. While this may be the case, in the 2012 consultation on the Draft Regulations the Department states

“that this extension is justified on environmental grounds. Otherwise, many consumers could simply treat these bags as a replacement for single use bags – and use and discard them in the same way. This would have significant adverse environmental impacts; as such bags are typically made of heavier gauge materials”⁹

Equality, Human Rights and Impact Assessment

The findings of the Equality of Opportunity, Human Rights, Rural Proofing and Impact Assessment are provided in Part 3 of the 2012 consultation. The statements are made in relation to the impact of “*these legislative proposals*”, and while the 2012 consultation is focused on the levy for single carrier bags at 5 pence, it is not made clear as to whether the assessments apply to the second phase of the levy as well.¹⁰

However, the findings from the Regulatory Impact Assessment explain that the assessment was made on the range of different options available for single use carrier bags, and that the option to have a 10 pence levy (discounted to 5 pence in the first year) was the preferred option. While this demonstrates the consideration of the impacts of a 10 pence levy, it is not clear as to whether the findings can also be applied to the roll out of the levy to low cost re-usable bags.

⁸ Consultation on Draft Regulations 2012

http://www.doeni.gov.uk/index/protect_the_environment/waste/carrier_bag_charging_2011_policy_consultation.htm (p.10)

⁹ Consultation on Draft Regulations 2012

http://www.doeni.gov.uk/index/protect_the_environment/waste/carrier_bag_charging_2011_policy_consultation.htm (p.11)

¹⁰ Ibid (p.28/29)

Actions taken elsewhere

This section gives an indicative overview of carrier bag bans and levies that have been introduced elsewhere. The following map shows the location of bag bans and levies worldwide. An interactive version can be accessed at:

<http://www.factorydirectpromos.com/plastic-bag-bans>

Global carrier bag action

Key:

- = Plastic bag bans
- = Usage fee
- = Bans failed



Source: *Plastic Bag Ban Community Page* – “Changing The World Together, One Bag at a Time” produced by Factory Direct Promos (manufacturer of custom bags)¹¹

¹¹ Factory Direct Interactive Map <http://www.factorydirectpromos.com/plastic-bag-bans>

The table overleaf takes information from the interactive map to give an overview of bans and levies from countries throughout the world. Other sources have been used to supplement the information provided by the map, which include:

- Department of the Environment and Heritage, Plastic Shopping Bags – Analysis of levies and Environmental Impacts – Final Report¹²
- Clean Up Australia - Report on action to reduce circulation of single-use plastic bags around the world (2009)¹³
- Department of Environmental Protection, Florida – Retail Bags Report¹⁴

¹² Available at <http://www.environment.gov.au/archive/settlements/waste/index.html>

¹³ Available at www.cleanup.org.au/PDF/au/cua_plastic_bag_usage_around_world_april_2010.pdf

¹⁴ See maps/lists page <http://www.dep.state.fl.us/waste/retailbags/default.htm>

Overview of bag bans and levies

Country	Ban	Levy
UK	UK settled a voluntary agreement between the government and retailers to cut the use of plastic bags given out in 2009 compared to figures recorded for 2006. There is no national statutory requirement, however towns have taken it upon themselves to introduce voluntary bans on the use of plastic bags e.g. Modbury 2007, Henfield 2008, Hay-On-Wye in Wales, Selkirk in Scotland 2008	In October 2011 a 5p tax was imposed on all single use carrier bags given out at retailers in Wales. The program was such a success in the first year that plastic bag use fell by 96 percent, and hundreds of thousands of pounds were raised for charities. The model used in Wales was the inspiration behind the tax imposed in Northern Ireland and Scotland. The Scottish government launched a 3-month consultation to seek views on a proposal to phase out disposable plastic shopping bags by imposing a fee on shoppers at the checkout. The fee is intended to encourage shoppers to bring their own reusable bag
Republic of Ireland		Ireland was the first country to tax plastic shopping bags. It introduced a 15 Euro cent tax on plastic shopping bags in 2002. The aim of the levy was to change consumer behaviours, which is why the tax was targeted at consumers rather than retailers. Plastic bag usage dropped by 94% within weeks. The money raised is invested back into clean-up actions. In 2007, the tax was increased to 22 Euro cents per bag. While there has been a dramatic decrease in plastic bag consumption, there has been a substantial increase in the use of reusable bags.
Denmark		In 1994, Denmark established a tax on plastic and paper bags paid by retailers. Therefore, retailers strongly promote the use of reusable bags. As a result, the use of plastic bags has been reduced by one third.
Germany		In Germany, all stores that provide plastic bags must pay a recycling fee to the government for enhancing recycling programs. As a result, retailers charge between 5 and 10 cents per single-use bag depending on the type of bag.
Italy	Italy was responsible for one fifth of plastic bag usage in Europe and therefore introduced a ban on single use plastic bags in 2011.	Between 1989 and 1992, Italy introduced a tax on plastic bags, but the tax was minimal (0.0051 Euro per bag) and it did not have an impact on plastic bag consumption.
United States	San Francisco became the first city to introduce a ban on pharmacies and large supermarkets distributing non-biodegradable plastic bags in 2007. Bans have been introduced all along the East Coast	There are very few actual levies on carrier bags throughout America. In 2007 California approved a law requiring supermarkets to take back plastic bags from consumers and ensure recycling. In 2012 Aspen banned disposable plastic shopping bags and levied a 20-

Country	Ban	Levy
		cent fee on paper bags. One month after the ban became a law it was estimated that 80-90% of shoppers were bringing their own reusable bags when they shop.
Canada	<p>Leaf Rapids became the first city in North America to pass a ban on disposable plastic shopping bags in 2007. Through donations the city collected 5,000 reusable shopping bags and handed 5 bags out to each household in order to help the community make the transition to the ban</p> <p>In 2009 retailers in Eriksdale are not allowed to distribute single use plastic bags for free or for a fee. Small bags used for bulk items, meat and dairy are excluded; however, they must cost more than \$1.50. Retailers who violate this policy can be charged fines up to \$1,000.</p>	Northwest Territories introduced a mandatory 25 cent charge on all paper and plastic bags in all grocery stores in 2010. Toronto Council, Quebec (2007) and Ontario (2009) approved a 5 cent charge for each bag used by customers in grocery and retail stores. Additionally, in many areas of Canada, plastics bags are included in the kerbside recycling collection.
Australia	<p>South Australia was the first state to ban HDPE plastic bags in 2009, as a response to the state government's "Zero Waste" policy. Retailers may be fined if they sell or give away plastic bags made from polyethylene polymer less than 35 micrometer thick. The Northern Territory government introduced a ban on single use plastic bags in 2011. Shops are forbidden to sell or give away non-biodegradable lightweight plastic bags.¹⁵</p> <p>Coles Bay in Tasmania was the first town to prohibit plastic bags in 2003. Retailers are now offered recycled paper bags or reusable fabric bags for a fee.</p>	
New Zealand		In 2009, a number of retailers implemented levies on plastic bags as a result of community concern, however this effort failed. Retailers are selling and encouraging customers to use reusable bags, but this is completely voluntary. In addition, Christchurch City Council collects plastic shopping bags from the kerbside as part of their recycling collection service.
South Africa	In 2003, South Africa banned the use of High Density Polyethylene (HDPE) plastic bags, which are the thinner plastic bags (less than 30 micrometer thick)	<p>Additionally, a levy on the thicker plastic bags was imposed allowing retailers to sell plastic bags but not distribute the bags for free.</p> <p>The thinner plastic bags (HDPE) were banned first, as they tend to be more extensively used than the thicker, boutique style plastic bags (the Low Density Polyethylene (LDPE) plastic bags). Also thick bags are more</p>

¹⁵ Northern Territory <http://www.abc.net.au/news/2011-09-01/20110901plastic-bag-ban-begins/2865780>

Country	Ban	Levy
		expensive and not many retailers can afford to supply them, therefore the fear that they would be used as single carrier bags would not be the same as it is in NI.
Bangladesh	Was one of the first countries to introduce a ban on plastic bags due to the major flooding in 1998 where plastic bags blocked drains preventing water from escaping. Therefore the government took action with a plastic bag ban. This led to alternative bag use such as jute bags made from jute plants that grow in abundant amounts locally.	
China	In 2008, China introduced a ban on the production, distribution and use of lightweight HDPE bags.	In addition to the ban, retailers are allowed to charge consumers for heavier duty LDPE plastic bags with a thickness greater than 0.025 micrometres.
India	Mumbai banned the use of plastic bags thinner than 50 microns in 2012 due to clogging of drainage systems. In October 2008 Chandigarh banned the use and sale of plastic bags. In October 2009 the city added translucent plastic bags (produce bags) and disposable containers to the list of banned materials. Severe flooding in 2005 caused by the blockage of municipal drainage systems brought about the ban of plastic bags in Maharashtra. A bag ban was introduced in Thrissur 2011, and merchants who violate this can face fines and have their shop license revoked.	
Mexico	Mexico City approved a law to ban the use of non-biodegradable plastic bags in 2009	