



NILGA response to the Call for Evidence in relation to the Carrier Bags Bill 2013

This paper has been drafted on the basis of our previous consultation responses, issued in liaison with the NILGA Waste and Environment Working Group, Technical Advisors Group (TAG), the Local Authority Recycling Advisory Committee and the Regional Waste Management Groups for NI.

This response was considered and approved by the NILGA Executive on 9th August 2013.

For further information or to discuss any of the issues highlighted, please contact Karen Smyth at the NILGA Offices: Email: k.smyth@nilga.org Tel: 028 9079 8972

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Chief Executive

12th August 2013

1.0 INTRODUCTION

NILGA, the Northern Ireland Local Government Association, is the representative body for district councils in Northern Ireland. NILGA represents and promotes the interests of local authorities and is supported by all the main political parties in Northern Ireland. Litter prevention and waste management are key issues for local government due to the huge impact they have on our resources, economy and environment. Waste management holds a potential for job creation, combined with a positive environmental impact through modernising processes and infrastructure. NILGA is pleased to be able to have an opportunity to respond to the Call for Evidence in relation to the Carrier Bags Bill 2013 and we trust that our comments will be taken into account when developing the Committee's final view on this legislation.

For further details on this response, please contact Karen Smyth at the NILGA Offices. k.smyth@nilga.org (028) 90798972

2.0 OVERVIEW

NILGA is strongly supportive of schemes to reduce packaging waste and to extend producer responsibility, and was therefore broadly supportive of the introduction of a 'single-use bag levy'. This continues to be the case.

It has been evident to our members that the introduction of the levy has had a huge impact on public behaviour, and has been an important opportunity for the region to be more innovative in its approach to waste and resource use, however, members are keen to ensure that adequate information is given to retailers in relation to packing of loose food items, to overcome any confusion in relation to bags for food safety purposes.

Our members are also keen to explore how the introduction of charging for bags for high-end retail items such as clothes and shoes, is being perceived and implemented.

Members have pointed out that in their experience, some small retailers are opting out of the scheme due to what they perceive as prohibitive administrative arrangements and are no longer providing bags for their customers.

NILGA has been and continues to be broadly supportive of the proposal to extend the scheme to cover re-usable bags, as in the Republic of Ireland.

3.0 A REQUEST FOR EXTENSION OF THE PROPOSED LEGISLATION

It is the NILGA view that this further legislation should be used:

- To introduce a requirement for all plastic bags to be **biodegradable**.
- To further develop retail **'take-back'** services for packaging

NILGA respectfully requests that the Committee considers formulating amendment clauses to the Bill to achieve the above proposals, although it is noted that these proposals would not be without complication for councils.

For example, the implementation of biodegradable bags would require careful communication to the general public regarding disposal. The other consideration to this is that any take back schemes would require closer working between the retail sector and councils to advance recycling rates *together* rather than in isolation to one other.

NILGA would reiterate its view that funds raised through this scheme must not be used as a replacement for DOE budget shortfalls. It is recommended that funds raised should be used e.g. to monitor existing waste streams and to track new waste streams, to assist in the development of a robust evidence base for future waste management work.

The following comments are made in relation to the individual clauses of this Bill.

4.0 COMMENTARY ON CLAUSES

Clause 1 – Extension of the 2008 Act to carrier bags

Clause 1 amends the 2008 Act to enable the Department, through regulations, to make provision for a minimum charge on carrier bags – that is, it removes the restriction to single use bags.

NILGA is broadly supportive of this clause.

Clause 2 – Regulations under Schedule 6 to the 2008 Act

Clause 2 amends section 77(4) of the 2008 Act to require that any regulations made by the Department which increase the amount of the minimum charge for a carrier bag are subject to the Northern Ireland Assembly's affirmative resolution procedure.

It also applies section 17(5) of the Interpretation Act (Northern Ireland) 1954³ to a power to make regulations under Schedule 6 to the 2008 Act. This gives the Department greater discretion as to how it applies the carrier bag charging requirements. It would, for example,

allow the Department, through regulations, to make different provision for different cases, or to provide for exceptions from the requirements of the regulations.

NILGA is broadly supportive of this clause.

Clause 3 – Requirement to charge

Clause 3 amends paragraph 2 of Schedule 6 to the 2008 Act.

The amendment allows regulations to require that the minimum charge be applied whether or not the bags that are supplied to a customer are actually used to carry away (or to deliver) goods purchased from the place where the bag is supplied at the time the bag is supplied. It is sufficient that the bags are designed for that purpose.

NILGA is broadly supportive of this clause.

Clause 4 – Sellers

Clause 4 amends paragraph 3 of Schedule 6 to the 2008 Act.

Paragraph 3 provides for a “seller” of goods to be defined in regulations. It also provides that the Department may use the regulations to apply the charge to a range of different sellers. These include all sellers of goods, sellers named in the regulations and sellers identified by reference to four specified factors - the place from which the goods are supplied, the type and value of goods supplied and the seller’s turnover.

The purpose of the amendment is to add a further specified factor – the number of a seller’s full-time equivalent employees. The amendment also sets out how the number of full-time equivalent employees is to be calculated.

NILGA is broadly supportive of this clause.

Clause 5 - Payment of the charge

Clause 5 amends paragraph 4A of Schedule 6 to the 2008 Act.

Paragraph 4A provides that regulations may require a seller of carrier bags to pay the gross proceeds or the net proceeds of the charge to the Department. The amendment allows the Department to specify how, and at what intervals, the amount due is to be paid. It also gives the Department the power to impose interest payments, in the event of late payment.

NILGA is broadly supportive of this clause, but would encourage the Department to liaise closely with the retail sector to ensure that these requirements are practical and achievable.

Clause 6 – Carrier bags defined by price

Clause 6 amends paragraph 5 of Schedule 6 to the 2008 Act.

Paragraph 5 provides that carrier bags which are to be included in regulations may be defined by reference to technical specifications such as a bag’s size, thickness, construction or composition and/or its intended use. The amendment also allows such bags to be defined by reference to their price.

NILGA is broadly supportive of this clause, but would encourage the Department to liaise closely with the retail sector to ensure that these requirements are easily understood and well communicated to retailers.

Clause 7 – Records and enforcement

Clause 7 amends paragraphs 7 and 8 of Schedule 6 to the 2008 Act.

Paragraph 7 gives the Department power, exercisable through regulations, to require sellers to keep and make available certain records and information in relation to the minimum charge. This amendment provides that such records and information may include details of the payments of the gross and net proceeds of the minimum charge to the Department.

Paragraph 8 gives the Department powers to enforce regulations made under Schedule 6 to the 2008 Act. In particular – where there is reason to believe that a seller has failed to comply – the Department may question a seller or require a seller to provide documents and information.

Clause 7 provides for routine monitoring activity by the Department by removing the requirement of reasonable belief of failure to comply. It also provides the Department with additional enforcement powers, exercisable through regulations, to permit the inspection, retention and copying of documents.

NILGA is broadly supportive of this clause.

Clause 8 – Civil sanctions

Clause 8 repeals paragraph 24(6) of Schedule 6 to the 2008 Act.

Paragraph 24 requires the Department to carry out a review of the operation of civil sanctions in relation to a breach of the carrier bag charging regulations. The repeal removes the requirement to lay a copy of any such review before the Assembly.

NILGA is broadly supportive of this clause.

Clause 9 - Review

Clause 9 requires the Department to prepare a report on the operation of the carrier bag charging provisions. The report, which must be prepared within 3 years of the Act coming into operation, must include an assessment of the effectiveness of the legislation and whether any amendments should be made. The report must be published and must be laid before the Assembly.

NILGA is broadly supportive of this clause.

Clause 10 – Short title

Clause 10 provides a short title for the Bill.

NILGA has no comment to make on this clause

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