



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Carrier Bags Bill: DOE Briefing

6 June 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Mr Simon Hamilton (Deputy Chairperson)
Mr Cathal Boylan
Mr Tom Elliott
Mrs Dolores Kelly
Mr Ian Milne
Lord Morrow
Mr Peter Weir

Witnesses:

Ms Jennifer McCay	Department of the Environment
Mr Donald Starritt	Department of the Environment
Mr Simon Webb	Department of the Environment

The Chairperson: Hello. You are all very welcome. Good morning. Donald Starritt is carrier bag levy head of policy and legislation team, Simon Webb is carrier bag levy project manager and Jennifer McCay is from the carrier bag levy policy and legislation team. You can give us a briefing for five to 10 minutes, and then I am sure that members will have questions to ask.

Mr Donald Starritt (Department of the Environment): Certainly. Thank you, Chair. It will probably not take me too long to give a quick summary. Members will know that the Bill was introduced to the Assembly last week, and the Second Stage is scheduled for 11 June, which is why we are here today. You should have two papers from the Department. The first one is the delegated powers memorandum, which essentially summarises each clause of the Bill that allows us to make subordinate legislation basically to put more detail into how the carrier bag levy will work.

The Chairperson: Donald, will you speak up a little bit? These microphones are not really for loudspeaking; they are only for recording. It is such a big room, and you are sitting at the other end of the room. I need to hear you.

Mr Starritt: Sorry. As I said, there are two documents. The first is the delegated powers memorandum, which explains the powers in the Bill to make any subordinate legislation. The second paper is an overview of the Carrier Bags Bill. There we have gone through each clause of the Bill and set out what the clause does and how we propose to use the clause, so that the Committee can see why the Bill is being brought forward in the first place.

It is perhaps worth confirming, for context, that the Bill provides for phase two of carrier bag charging, which is to extend the levy to a range of low-cost reusable bags and increase the levy from 5p to 10p.

To do that, we need a mixture of primary legislation and further subordinate legislation. That is really what phase two is about. One point that I would like to make at this stage is about the reusable bags and which bags we are talking about. The legislation will allow us to define those bags with regard to price. There is no price figure that will appear on the face of the Bill; that will appear in the subordinate legislation. The Minister has not taken a final decision on what the figure should be. He has a figure in mind, which is 40p, so that means that bags with a retail price of less than 40p would be subject to the 10p levy. Effectively, that would increase the price of that bag by 10p.

The Chairperson: So, if it is 39p, they need to add on 10p to help to pay the 10p levy.

Mr Starritt: That is right. Typically, we think that low-cost reusable bags are mostly around 5p to 15p to 20p. Therefore, it would increase the price of those bags by 10p. The retailers would be required to pay the proceeds from that 10p levy — the same with the single-use charge — to the Department.

Intuitively, people will wonder why they are being charged for low-cost reusable bags; surely those are the types of bags that we want people to use? Yes, we want them to use them and reuse them. However, the danger is that if we do not apply the charge to those very cheap bags, they become the throwaway bag and are not reused as they are intended to be. A lot of shops operate a bag-for-life policy whereby you buy your first bag, you bring it back and you can get it replaced. That will still be possible under the legislation. It will be only the first bag purchased that will attract the levy.

The Chairperson: Those bags are less than 40p. The Tesco —

Mr Starritt: Typically, they can be as cheap as 5p, and they could be up to 15p to 20p.

Mr Hamilton: Sometimes dearer than that.

Mr Starritt: That initial purchase would rise by 10p, assuming that the retailer does not change the price of the bag to start with, and the 10p levy proceeds would come to the Department.

The Chairperson: It is making it so complicated. I still say that the principle is wrong. We are putting a levy on people buying reusable bags. A lot of people would support a levy on the single-use bags but, when it comes to reusable bags, they still have to pay a levy. The message is that we still do not want you to buy reusable bags at a cheap price.

Mr Starritt: Intuitively, it does not seem right. Since the single-use bag levy came into operation, we have seen an awful lot of additional, very low-cost, quite flimsy reusable bags being sold by retailers. On the one hand, you say that that is fair enough and you would expect that to happen. The danger and the worry is that people will not reuse them. They will simply use them as a better bag to line their bin with. They will throw them away, and we could have created a new, more robust throwaway bag, which would be a bigger environmental problem. That is the reason for putting the charge on the bags in the first place. Equally, when people behave responsibly, reuse those bags and bring them back for a replacement, they will get a free replacement. That means that people who behave responsibly are not penalised.

The Chairperson: They are not the same size as the single-use bags. They are a different size. I do not think that you can line the small pedal bins with them.

Mr Starritt: I am quoting one use there, but they could be thrown away or used for other purposes. When people go into a shop and are faced with a flimsy single-use bag or a very cheap reusable bag, which would be even cheaper if it did not have the levy, there is no choice: they will pick the better bag, possibly with the intention of reusing it, but that does not mean that they will, and that is what we are trying to tackle. Without that, we think that we really could have an environmental problem on our hands.

Mr Hamilton: Initially, I would have been sceptical about the introduction of the levy, even for the flimsier bags. Notwithstanding the genuine administrative concern that small retailers have, which we all appreciate, it would be wrong to say anything other than it has been a success in reducing the number of bags, which was the intention in the first place. From that perspective, it has been more than a success: it has been a roaring success.

I know what you are saying, Chair, about it seeming a bit odd that we are now putting this levy on bags that, ostensibly, are helping the environment and are reusable, but I am aware of one major supermarket selling a reusable bag that is not much better than the carrier bags that it would have given away for free. It is only slightly stronger; it would not take too many goes. The price point is 6p. It has been deliberately put at 6p. It is a branded bag, so it is a nice bit of advertising for the company. People are saying that they will pay the extra penny because it is a better bag. It is not much better. They will need another every couple of weeks, so you get into that, and there is a risk that every major supermarket — given that they are the biggest users of these bags — will start to do that and people will get into the way of thinking, "Well, it is a better bag and it'll last you a week longer than the last one would have, so I will pay the extra penny".

The Chairperson: Rather than pay the tax.

Mr Hamilton: Yes, rather than pay the tax. People are funny. If multinational companies will do anything to avoid tax, some people will think, "OK, I am paying an extra penny but I am sticking it to the taxman, so it's fair enough". People will always attempt to game the system, and that is one such attempt. The supermarket has put 1p on for a bag that is not massively better, and the risk is that all the supermarkets follow that one's lead, and they all do it at 6p, we will not quite be back at square one, because I do not think that we will go back to anywhere near where we were, but, after an initial huge drop in the consumption of bags, you may again see it start to go up slightly. That is better than where we were and all of that, but you just want to ensure that any scope for that happening is done away with. The price of better-quality bags that some supermarkets are selling will not be significantly affected by this. These are the ones that bridge the gap between really flimsy stuff that you got for free before and the stuff that is sold by playing on people's psyche that this is a better bag, so I do not have to spend the higher amount of money, I will just pay 6p for this one.

So, you are right: it does not seem right, Chair, it seems counter-intuitive to what we intended and how we were trying to encourage people to behave. However, we have already seen evidence of some companies trying to game the system and get round it. Therefore, it seems to be a logical extension, given the evidence, because this has obviously been in the works for some time. We have only a couple of months' worth of evidence, but within even that time, we can already see some retailers trying to work their way round it. I am not wildly enthusiastic about anything to do with this — it is hard to be — but I support the principle of it.

Mr Boylan: Thanks, Donald. It will soon be that everybody will have to do a degree to understand the kind of bag that they will use. I can imagine people like that walking into a shop like that from now on. The key element in all of this is getting the message of what we are trying to do out to the public again. My colleague mentioned the issue of cheaper bags coming in and being used. Simon talked about the 1p extra, and that is not acceptable either because that is not the focus of the legislation. We need to get away from this thing about the levy and the tax issue, which people out there still believe it is. You said that the legislation defines what type of bags will be affected. You clearly have an idea what that is, and perhaps the Committee will have sight of it. The important part is how you roll out informing the public about what exactly is coming down the tracks. Would you like to expand on those points?

Mr Starritt: Sorry, I meant to mention earlier some detail of how the policy will unfold. We are not just at this stage yet, but we hope to have a draft of the regulations, really to inform members as they look at the Bill at Committee Stage as to how the Department proposes to use it. That set of regulations will be an advanced draft rather than completely finalised. We would keep the Committee informed of the extent to which there would be any changes. It is really just to show how we are going to use the legislation.

Mr Simon Webb (Department of the Environment): Everyone acknowledged that the phase one communications campaign was very successful in relaying the 5p levy to the public. A similar campaign would be envisaged from January next year in the build-up to the implementation of phase two.

Mr Weir: Thank you for your evidence. I tend to concur with what has been said already. The communication side will be crucial, particularly around the reusable bags. The argument is to prevent people getting around the situation, particularly some of the larger companies. That message needs to get across, because it is counter-intuitive.

The other thing with regard to promoting the general idea is that it is not just going to be the reduced level of use of bags, and we have seen publicity around that already. When we get to the stage when money is generated and used for environmental projects, it is important that those are pushed from a high-profile point of view.

My other issue, which does not go to the heart of any of the direct regulations, is very anecdotal. I have spoken to some shopkeepers who run small businesses, and they have noticed two things. One is positive and the other is negative, and the hope is that the negative thing will not last that long. The positive side is that the amount of money that they are spending on plastic bags has been reduced significantly, and their costs have been reduced correspondingly. However, there is concern among some of the smaller shops that their trade, at least initially, has dropped. The concern, particularly from those who run convenience-type shops, is that it is producing a shift in consumer behaviour, because, rather than going for a few items and trying either to carry them out or use a plastic bag, people are simply thinking that if they are going to have to pay for bags, they will not get those few items from a particular shop but will wait until they do a large shop at the supermarket. I suppose there is a concern that one unintended consequence has been a shift in consumer patterns away from some of the smaller shops. I appreciate that we are relatively early in the process and that things may settle down, but is the Department doing any monitoring of the impact of that? If, as a result of this, there was an unintended shift, would we need to look at whether there could be any rebalancing or compensating measures — not so much on the plastic bag side — to shift that burden back a little bit?

Mr Webb: With regard to the evidence of the impact on smaller traders, obviously we have the carrier bag levy team with customer relations managers who interact daily with businesses. You are quite right: initial evidence suggested that there was that sort of immediate impact with customers having to carry their groceries out and buying fewer impulse purchases. However, one set of data that I have seen seems to indicate that that is tapering off now and that it was a short-term effect as people got used to bringing their bags on a very regular basis, even if it was just to the convenience store.

With regard to costs, the Department is not proposing anything at the moment that would differentiate between retailers. One of the principles of the legislation has always been to treat all retailers equally. However, it is hoped that those carrier bag cost savings would offset any small short-term effect in the impact on trade.

Mr Elliott: Thank you for the presentation. I was going to mention the point that Peter talked about with regard to the small retailers and people buying fewer goods. I have not heard that evidence yet, but I am pleased to hear that that may be tapering off. However, I would be pleased to get feedback on that, and I am sure that the Committee would as well.

It gets slightly confusing for the wider public as it progresses. Simon talked about one company getting a way round the 5p levy. People will always find a way round mechanisms. If you set the rate at 40p, for a bag that they may have been charging 35p for, they will just up that price to 41p, and then there will be no levy. No matter what you set, there will be a mechanism to find a way around it. I am just wondering — I am not recommending this at the moment; I am just interested to hear your views — if there is not a suggestion to ban all single-use carrier bags, and those lower-value carrier bags as well.

Mr Starritt: I know that, for single-use plastic bags, there was talk at one stage. Europe did a write-around questionnaire to member states to take views on it, and I know that a ban was one thing that was discussed there. My understanding was that they did not actually go for that. I wonder how you would actually do it in for low-cost reusable bags. I suppose we have to be careful that we do not deny people the opportunity to have any sort of low-cost, low-price shopping bag that they intend to use responsibly. That, in a sense, is why we have tried to design the legislation so that where people do use them properly as a bag for life, they are not penalised. They will still have to pay the levy at first purchase, but it is a relatively small outlay. If you use it properly, and assuming that shops continue to work the bag-for-life policy, effectively a 15p to 20p outlay at the start is all you really need to make. A ban might be something that we are forced to think about if Europe decided to go in that direction, but we certainly do not have any indication —

Mr Elliott: I am not recommending it; I just wanted to hear your views on it, that is all. I just wonder when you will be back next with something different in the legislative process over carrier bags, because I assume that it will not stop here. I can foresee this being almost a rolling process, with individuals, companies, people or organisations finding a way around the process or mechanism.

What do you foresee in the future around all of that? Do you see us having to change and amend legislation quite often?

Ms Jennifer McCay (Department of the Environment): There is a provision in the Bill with two aspects to it. First of all, there is a provision for review in the Bill, which will require us to completely review the legislation and all its operational exemptions, and so on. We have to do that within three years of it coming into effect. As well as that, the Minister has agreed to bring forward an amendment at Consideration Stage — we will have to work out the detail of what it is going to say — specifically about review of exemptions. So there is provision; it really just depends what that reveals and whether the Department feels that there is a need for further legislation.

Referring back to what you and Mr Weir said about small retailers, it is worth mentioning that there is a clause in the Bill that allows the Department to define a seller by number of employees. As I said, at the moment, there is no policy decision to use that. All the retailers are going to be treated the same. There is a provision for that in the future. I think that is to future-proof the Bill. If, for example, there was evidence that it was harming smaller retailers, the Minister might take a decision to exempt certain retailers, such as smaller retailers, from the legislation.

Mr Starritt: That is probably the important point that we wanted to make. In designing the Bill, we have tried to future-proof it as much as we can. Members will note when you are in detailed scrutiny that there is also a provision in the Bill that attracts the Interpretation (Northern Ireland) Act 1954. The reason for doing that is to give maximum flexibility. It is not that there are any ulterior motives, because there are not. It is really just to make sure that we have flexibility so that, if some unintended consequence does emerge, we can deal with that a bit more quickly than we would if we had to bring in primary legislation and further subordinate legislation. That is the rationale.

Mr Webb: We will also need to look at the amount of the levy and the threshold at which the levy will apply once we get the first returns in and have had a couple of years of the system bedding in.

Mr Hamilton: I have a follow-on question about small retailers. Superficially, I imagine that what is proposed will have less of an effect on small retailers than the first Bill, because those who sell the type of bag that we are talking about tend to be the big supermarkets rather than small corner shops and other retailers. Have you looked at that or analysed whom it affects most?

Mr Webb: We do not have empirical data on that. It is more anecdotal evidence from the carrier bag team. However, you are quite right, and that is certainly the experience of the customer relations managers. When customer relations managers go out to stores, it tends to be the larger chain stores.

Mr Starritt: We have never been quite sure how small retailers could react. They could keep a stock of low-cost reusable bags as a service to their customers. However, even anecdotally, we have not heard a lot of evidence of that.

Lord Morrow: Thank you for your presentation. I have spoken to retailers, particularly those who operate in shopping malls where there are no restrictions on movement from one store to another and where casual shoppers come in, see something that they never intended to purchase in the first place and make that purchase. One retailer said that it was encouraging shoplifting, and I have witnessed people walking around from one store to another with goods in their hand and not in a bag. There are already horrific figures for shoplifting, and retailers say that this will exacerbate it and cost them a fortune. Would you like to respond to that?

Mr Webb: An analysis was done after the plastic bag levy was introduced in the Republic. It looked at elements such as the impact on shoplifting and found that there was a short-term impact. The study focused mostly on medium- and larger-sized retailers. It identified an initial upturn in shoplifting and shopping baskets being taken, but that subsided.

Mr Starritt: This is anecdotal and is only one example, but a shopkeeper made the point that he was concerned about shoplifting. A customer relations manager visited him in the store and, through their conversations, they came to the conclusion that the shop could be designed better — for example, the location of the till — to prevent that happening. On some occasions, it has prompted a retailer to think about the shop layout. In some instances, it may make shoplifting easier than it should be. You are right: it is a potential problem when people are using their own bags and wandering from store to

store. That is an inherent problem in shopping malls anyway. I am not sure whether the levy will increase it by all that much.

The Chairperson: Lord Morrow is right. Previously, many shops had logos on their bags, so when a customer handed over money, the clothes, shoes or whatever were put into that bag. People are now bringing their own shopping bags or are carrying the goods around.

Lord Morrow: Stores that used a designer, for the sake of a better word, bag — a high-quality bag to advertise their goods as people stroll around with whatever brand name or store name on it — find that they will be decimated by all this because they also come under the whip. I am not talking about stores that were built 50 years ago but those that were built about 10 or 15 years ago when shopping centres were designed to circulate customers. The thinking was that once you got people in, you should get them on the roof so that they circulate around the shopping mall. As I was talking to the retailer who was expressing her concern, lo and behold, did someone not walk past with goods over their arm. The retailer said that she not know where those goods had been purchased. I am not saying that there was anything wrong, but those goods could have been purchased in one store or in four stores. The person had filtered through to the retailer's store and was about to leave the shopping centre. Everything was probably fine, but what proof was there? The retailer had no authority to ask for a receipt because the goods were not purchased in her store.

Mr Hamilton: If you suspect somebody has been shoplifting, there are protocols.

Lord Morrow: If you charge someone in error, there are also protocols.

Mr Webb: As Donald said, we have had only one approach from a retailer on that issue. Certainly, if there are concerns, the carrier bag team is happy for a customer relations manager to meet retailers if that would help.

Lord Morrow: That would be useful. I would love to speak to that person and bring them to the retailer whom I mentioned.

Mr Starritt: I do not have the figures, but the customer relations managers have been out and about and have completed quite a number of visits. If people do not understand the exemptions or have a query, they can make a phone call. Sometimes, a very simple query can be answered over the phone, and at other times, that will not be the case. Customer relations managers are happy to make visits.

The Chairperson: Have all retailers received the telephone number and other contact details if they have any queries.

Ms J McCay: So far, customer relations managers have completed over 2,000 visits.

Lord Morrow: On the issue of redesigning a store —

The Chairperson: It would cost a lot of money to do that.

Lord Morrow: Exactly. That is my point. I would not want people to have to spend £10,000, £30,000 or £50,000 to redesign their store to facilitate the new bag levy.

Mr Starritt: In the situation that I spoke about, the redesign of the store simply involved moving the till from one end to the other. I accept what you are saying; it will not be the answer every time.

Mr Elliott: For clarification: will the Bill give the Department the right to determine the type of bag, the size and the cost-charging mechanism? If so, it gives the Department a pretty wide range of powers. Am I right in saying that?

Mr Starritt: Yes; the type of bags that would be subject to the levy and the minimum charge can be set in subordinate legislation. Subordinate legislation that sets the charge has to be brought back to the Assembly. So, for example, we could not make an increase from 10p to 50p. Any increase in the charge would need new regulations.

Mr Elliott: Would a change to the type of bag need new regulations?

Mr Starritt: Yes.

Ms J McCay: Most of the provisions require affirmative resolution.

Mr Starritt: All the details have to go into the regulations, and they mostly require affirmative resolution.

Mr Elliott: So this is enabling legislation.

Mr Starritt: Yes.

The Chairperson: Cathal, you have been very patient.

Mr Boylan: It is brilliant: we have a carrier bag team. It could be called "Team Carrier Bag".

Mr Weir: It would be suitably branded.

Mr Boylan: That is a good idea.

You said that the Minister may bring something forward at Consideration Stage for exemptions. Let us not confuse the issue. Many of the people whom I have talked to have bought into this: the response has been positive, and people are reusing bags. I would be concerned if we went down the route of bringing in too much. I go back to the issue of communications and the positivity around the measure.

Mr Starritt: It is possible that as the provision, and all the provisions for review, roll out, there could be unintended consequences. Perhaps the exemptions will not be sufficient, will need to be added to or will need to be taken away. It is not that we have something up our sleeve that we want to bring in very quickly. It is future proofing the legislation to give us the flexibility to react to a problem more than —

Mr Boylan: Sorry to interrupt you, Donald, but surely there are other models. It is not the first time that a levy has been used; it is in Ireland, Wales and so on. Surely you have looked at any possible issues, including theft and so on, that will arise from the introduction of levies.

Mr Starritt: We have spoken to colleagues in Ireland and Wales and have visited them. Our legislation is very much based on their legislation. We have covered the tweaks for Northern Ireland. The exemptions, in particular, are very similar to the provisions in Wales. As things stand, we do not anticipate any major changes.

Mr Webb: Phase 1 of the levy is more akin to the Welsh approach on single-use carrier bags. Phase 2, which brings in the price threshold, will introduce an element of the Irish system. So there is a combination of the best of both schemes, and the lessons learned in both jurisdictions will be taken on board. Indeed, the carrier bag levy team operations manager has just been over to Wales to discuss our proposals for phase 2 because Wales has seen an increase in very low-cost reusable bags since it brought in charging in October 2011.

Mr Boylan: A lot of industries that I know have certainly bought into it. Small traders have bought into it. It is a positive message.

The Chairperson: You are the carrier bag team, and there are 10 new members of staff based in Derry. Are you part of that team, or are you within the DOE?

Mr Webb: Effectively, we are the policy and project team, and we are based in Belfast in Goodwood House. We are responsible for overseeing the project and bringing the legislation through. You are quite right: the team in Orchard House has 10 staff and is headed by an operations manager. Once phase 2 is completed, they will carry on with the implementation, and we will drop away.

The Chairperson: So they are more on the administration side.

Mr Webb: Exactly; that is absolutely right.

The Chairperson: You mentioned exemptions a few times, and I know that there will be a review. Yesterday, a colleague and I went to a restaurant that had a sandwich bar attached. We wanted two packs of salad to bring down to Botanic Gardens; we wanted to sit in the sun for our lunch.

Mr Hamilton: Do not admit that; this is being reported by Hansard. We work hard all day, every day.

The Chairperson: I very seldom go out for lunch.

Lord Morrow: It was during your lunch break.

The Chairperson: It was.

Mr Hamilton: It was a working lunch.

The Chairperson: It was a working lunch. It was not with a colleague from my office; I was meeting someone for lunch. Instead of going to a restaurant, I said, "Let's get two carry-out sandwiches or something, and go to Botanic Gardens."

Mrs D Kelly: A bottle of Buckfast.

Mr Weir: A bottle of Bucky.

Mr Hamilton: She was not in Lurgan Park.

The Chairperson: No, it was Botanic Gardens, five minutes' walk from my constituency office.

Lord Morrow: Were you having a barbecue?

The Chairperson: Joking aside, we had salad, which is classified as cold food, and we were charged 5p for a bag. Had we ordered soup and a baguette, we would not have been charged 5p. I think that it would have come with a paper bag. I have seen some people carrying a paper bag. Soup, baguettes and sandwiches are sold, but if you order soup, you are not charged 5p. However, you are charged 5p for salad or sandwiches. There is an anomaly.

Mr Starritt: You know the reason, of course, Chair; it is the hot food exemption. I know that we have discussed this previously.

The Chairperson: It is so confusing.

Ms J McCay: There is a food safety aspect to hot soup. The bag is an extra layer of protection for the consumer. I appreciate that it can be confusing for retailers and the public.

Mr Weir: Could you ask for hot lettuce next time? *[Laughter.]*

The Chairperson: Hot chicken or egg sandwiches. Will you look at instances of a shop selling both hot and cold food? It is so confusing.

Mr Starritt: If a shop is selling both, the exemption is specifically for the food, not for the shop. The decision has been taken that hot takeaway food attracts an exemption. Other than that, it is not needed. It is about trying to keep the exemptions as low as possible. If you buy your hot food in Tesco, it will still be exempt. It is about the food rather than the retail outlet, and I appreciate that that gives retailers a challenge. The customer relations managers have had no problems with that.

Mr Boylan: What happens if you get a salad burger?

Lord Morrow: It is part exempt.

Mr Milne: Are more people now bringing their own plastic bags with them? I have heard that people are buying thousands of bags on the internet for a couple of pounds. If you increase the price of single carrier bags, surely it will push more and more people towards the black market to buy bags and bring them to the shops?

Mr Webb: It is possible that a small number of people may bulk-buy bags online and have them delivered to their home. They may reuse them. It is about behavioural change. Even though they have paid less for those bags, they are still more likely to reuse them had there not been charging.

Mr Milne: The reports are of 1,000 bags for £2.50 or £3. People can purchase those. They may find it easier to buy 1,000 bags for £2.50 than pay 10p every time they purchase a single bag.

Mr Webb: It is not an issue that has been drawn to our attention previously. We might need to consider that.

The Chairperson: We seem to be broadly content with all the clauses. We will see you again soon. Thank you.