



NORTHERN IRELAND INDEPENDENT RETAIL TRADE ASSOCIATION

**Draft Single Use Carrier Bags Charge Regulations (Northern Ireland) Consultation
Response of the Northern Ireland Independent Retail Trade Association & Association of
Convenience Store**

Introduction

1. The Northern Ireland Independent Retail Trade Association (NIIRTA) welcomes the opportunity to respond to this consultation. Our colleagues in the Association of Convenience Stores support this submission. NIIRTA represents 1300 local shops located throughout Northern Ireland. Convenience stores' business models rely heavily on impulse shopping, making the availability and potential cost of carrier bags key to their businesses.
2. NIIRTA opposes the introduction of a tax on consumers that will raise revenue for the Northern Ireland Executive. We continue to oppose the introduction of a levy, but urges Ministers to develop a system based on retailers being able to choose where to invest the proceeds from carrier bag charging. This approach, as put in place in Wales and proposed in Scotland, is the right way to tackle the problem and ensure retailers and communities are engaged positively and constructively in addressing concerns about carrier bag waste.
3. If the DOE plan to introduce charges for single use carrier bags it should minimize regulatory burdens on retailers and **ensure** lessons are learnt from the errors of the Welsh Assembly in implementing the policy.
4. A consultation on the introduction of a carrier bag levy has also been launched in Scotland. It would be beneficial for UK businesses to deliver as much consistency between regulations in the three jurisdictions as possible. There are a number of areas where the proposed carrier bag charging regulations differ significantly from the Welsh experience, and have the potential to create a disproportionate regulatory burden on retailers.

Regulation 1: citation and commencement

5. The implementation of carrier bag charging in Wales was hampered by the lack of communication prior to commencement, and therefore a lack of understanding from customers as to why charges were being introduced. Retailers have to deal with the confusion and dissatisfaction of a significant minority of customers that believed the policy was a store initiative rather than legislation. This disruption can cause significant delays and commit resources in stores. All possible steps should be taken to minimise the potential for disruption to stores during implementation in Northern Ireland.
6. In order to minimise the potential for confusion and disruption, the implementation must be carefully planned so as to:
 - a. Ensure sufficient time between the regulations being agreed and the implementation date. This should be 12 months from when the regulation is passed.

- b. Put in place an effective communication strategy focused on educating the public about the measure and the rationale for it

Regulation 3: meaning of “single use carrier bag”

7. Retailers will not necessarily find it easy to understand what is and is not subject to the compulsory charge. Easy to follow guidance must be provided that can be used for both staff training and communication to customers where necessary.

Regulation 6: Requirement to charge

8. If charges are to be introduced then it should be set at 5p, as set out in the draft regulations. NIIRTA opposes the proposed 10p charge planned for 2014. This is too high and could have unintended consequences for both businesses and the environment.
9. A convenience store’s business model relies heavily on impulse shopping, and is therefore a shopping type that could be disproportionately affected by changes or charges imposed on single use carrier bags. While superstore customers are more likely to plan their trip and to take plastic bags with them when they make a large shopping trip, impulse shoppers by definition are less likely to be prepared in this way. While the 5p charge introduced in Wales seems to have had minimal affected on customer spending, doubling this charge could lead to some customers reducing the amount they purchase in smaller format stores in order to either go without a bag or to fit into a single bag. It is therefore important that a balance is struck when deciding on the level of the charge between changing behaviour and not unfairly penalising customers who forget bags and the businesses that serve them.
10. The level at which a charge is set should be a level that deters customers from using bags. The aim should be for this to be at the lowest possible level whilst still being effective. On this basis an increase of 100% in the levy after one year of operation is not justified.
11. The regulations should be brought in at 5p and the level should be reviewed after a sufficient period of time (for example three years) and the review based on the evidence about the impact on behaviour.
12. The amount of revenue generated should not be a consideration in the setting of the levy.

Regulation 7 and Schedule 1: Exemptions from the requirement to charge

13. Exemptions for certain kinds of single use carrier bag are necessary for hygiene purposes. The exemptions suggested in the consultation strike the right balance, particularly those which relate to primary packaging such as allowing small bags for a range of products including raw meat and fresh fruit.
14. However, guidance must be issued to retailers which sets out in a clear and concise manner so that retailers can identify what bags can be used under these exemptions and train their staff accordingly. This should contain illustrative examples of the sizes of smaller bags listed.

Regulation 8: Payment of net proceeds of the charge to the Department of the Environment

15. The consultation sets out plans in to implement carrier bag charging as a tax to raise revenue as part of the Northern Ireland Budget. This is entirely different to the system in place in Wales and proposed in Scotland. In these jurisdictions it is for retailers, working with their customers and communities, to decide how best to use the revenue collected. Experience has shown that retailers and communities have reacted largely positively to a measure that is based around voluntary donation to charities. There is a strong likelihood that there would not be the same positive view of the imposition of a tax.
16. Imposing a levy in this way would also significantly impact on stores who already charge for carrier bag usage, where those stores already donate money to charity, potentially reducing the amount of charitable donations within communities.
17. Furthermore, for stores with sites across the UK, this proposal will markedly complicate the administration of these schemes. The Executive should withdraw this proposal and permit stores to donate the proceeds to charity, as put forward in both Wales and Scotland.

Regulation 9: Record keeping, and Regulation 10: Availability of records

18. The proposed regulations state that records would need to be kept and made available for a period of 6 years. Regulations in Wales only require records to be kept for 3 years. Therefore the current proposals are disproportionate and inconsistent. The records keeping requirement should be limited to 3 years, as set out in Wales.
19. Welsh regulations also set out more detailed information of what constitutes 'net proceeds' of the charge, including 'reasonable costs'. The Executive should follow this approach and clearly list applicable costs which can be deducted when compiling guidance on these regulations.

Regulation 12 and schedules 2 and 3: Civil sanctions

20. In order to achieve the aim of these regulations to reduce the impact of carrier bag waste on the environment, the regulations should clearly state that enforcement authorities initial approach should be to work with retailers to address any compliance issues, and that enforcement activity cannot be initiated without the authority being able to demonstrate that efforts to this effect have taken place.
21. This is even more crucial given the level of the variable monetary penalties outlined in the draft regulations. In particular, the regulations propose a maximum £10,000 penalty for failure to comply with the requirement to charge, double that set in Wales; and an additional penalty of up to £20,000 or 10% of the amount due for failure to comply with the requirement to pay the net proceeds to the Department.
22. The level of these fines could seriously harm legitimate businesses which had made simple errors in the administration of this new and potentially complex scheme. We believe, if this levy is to be introduced, the maximum level of these fines should be reduced and, as stated above, enforcement authorities should be required to take an initial advisory role. The removal of the requirement to pay the proceeds to the Department, and instead to allow charitable contributions, would also remove the need for this additional punitive charge.

Regulation 13: Combination of sanctions

23. Welsh regulations prevent the serving of notice of intent in relation to a discretionary requirement where a discretionary requirement has previously been imposed in relation to the same act or omission. This is a fair and proportionate exemption and should also be included in the regulations for the Northern Ireland levy in order to maintain both consistency and fairness of application.

Regulation 14: Enforcement powers

24. Officials need to be able to access premises in order to monitor compliance with the regulations. However, as such visits can cause disruption, the proposals should include a requirement on enforcement officials for prior notification of visits, except in cases where there is proven obstruction and non-compliance on the part of the retailer.

Regulation 21, 22 and 23: Guidance and Consultation on guidance

25. Guidance issued should be clear and concise, and designed for ease of communication with both retail staff and customers. This may include an easy to read overview document, with the more detailed guidance signposted.

26. When consulting on the guidance, the department should ensure that input is sought from a range of stakeholders, including those representing both small and large retailers, and consumer groups. In order to ensure a fair and comprehensive process, the regulations should also set out a minimum 12 week period for consultation.

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