EXPLANATORY MEMORANDUM TO

THE ENVIRONMENTAL PROTECTION (WET WIPES CONTAINING PLASTIC) (ENGLAND) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Emma Hardy, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, confirms that this Explanatory Memorandum meets the required standard.

2.2 Martin Woolhead, Deputy Director for Floods and Water, at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 For any queries regarding the instrument, please contact: wetwipes@defra.gov.uk. Alternatively, the department can be contacted by telephone: 03459 33 55 77.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These regulations are being made to ban the supply and sale of wet wipes containing plastic (with certain exemptions), to reduce unnecessary plastic and microplastic pollution. The ban will come into force 18 months after the legislation is signed.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is England and Wales.

4.3 The territorial application of this instrument is England.

5. Policy Context

What is being done and why?

5.1 A ban on wet wipes containing plastic builds on positive action taken across the UK to reduce plastic pollution. It will lower the volume of plastic litter, whilst also reducing the amount of microplastics entering our waterways.

What was the previous policy, how is this different?

5.2 The Resource and Waste Strategy for England, published in December 2018[1], committed to banning the most problematic plastic products where there is a case for it and where there are sustainable plastic free alternatives.

5.3 Bans on a range of unnecessary single-use plastic items, e.g. microbeads, straws, plastic cutlery, plastic plates, have already been introduced in England and the Devolved nations.

5.4 The government has identified plastic-containing wet wipes as a contributor to plastic pollution in rivers and oceans. Given the environmental impacts of plastic and microplastic pollution, a ban on wet wipes containing plastic was considered to be the preferred approach. A full options analysis can be found in our Impact Assessment.

6. Legislative and Legal Context

How has the law changed?

6.1 Up until the enforcement of this legislation, wet wipes containing plastic can be legally be sold and supplied in England.

6.2 This instrument is made principally under section 140 of the Environmental Protection Act 1990 ("the 1990 Act"). Insofar as it includes provision for criminal and civil sanctions, this instrument is made under section 62 of the Regulatory Enforcement and Sanctions Act 2008 ("the 2008 Act"). Section 140 of the 1990 Act is specified in Schedule 7 to the 2008 Act for the purposes of Section 62.

6.3 The instrument would, but for the inclusion of provision for criminal and civil sanctions, be subject to negative resolution pursuant to section 160A of the 1990 Act. In consequence of the inclusion of criminal and civil sanctions, it is subject to affirmative resolution in compliance with section 62(3) of the 2008 Act.

6.4 This new piece of legislation banning the supply and sale of wet wipes containing plastic is part of wider Government action on reducing plastic and microplastic pollution. Defra has previously implemented a ban on the manufacture or supply of rinse-off personal care products containing microbeads under the same powers: the Environmental Protection (Microbeads) (England) Regulations 2017 (S.I. 2017/1312). Defra has also implemented a restriction on the supply of single-use plastic straws and single-use plastic-stemmed cotton buds, and a ban on the supply of plastic drinks stirrers under the same powers: the Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020 (S.I. 2020/971).

6.5 Exemptions are in place for wet wipes containing plastic for medical and industrial uses. This is to ensure that where these products are necessary, and there are no viable alternatives, that they can be supplied and sold for those who require them.

Why was this approach taken to change the law?

6.6 A ban was considered to be the only option that would fully eradicate avoidable single use plastic (where alternatives exist) in line with 2018 Government commitment: Resources and waste strategy for England[2].

[1] https://www.gov.uk/government/publications/resources-and-waste-strategy-for-england
[2] https://www.gov.uk/government/publications/resources-and-waste-strategy-for-england

6.7 Other options, including subsidies and taxes, and information and education on correct disposal of wet wipes were considered. The Impact Assessment found that these options would not have been enough on their own to deliver the aims of the policy.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public consultation entitled '*Consultation on the proposed ban on the manufacture, supply and sale of wet wipes containing plastic'* (Consultation on the proposed ban of the manufacture supply and sale of wet wipes containing plastic - Defra - Citizen Space[3]) was held jointly with the Devolved Administrations from 14 October 2023 – 25 November 2023.

7.2 The consultation set out proposals to ban the manufacture, supply and sale of wet wipes containing plastic across England, Scotland, Wales and Northern Ireland.

7.3 The consultation asked for comments on the proposals including questions on consumer impacts, definitions, exemptions that all respondents were asked to answer, and industry specific questions that only manufacturers of wet wipes were asked to answer.

7.4 In total, we received 1,561 responses to the consultation through the survey hosted on Citizens Space and by email. Overall, 95% of respondents agreed or strongly agreed with the proposed ban on wet wipes containing plastic. Responses from members of the public and non-governmental organisations demonstrated overwhelming support for our proposals, with over 96% either agreeing or strongly agreeing with the proposed ban.

7.5 Following consultation analysis, the UK Government, Welsh Government, Scottish Government and NI Executive decided to announce a ban on the supply and sale of wet wipes containing plastic. Manufacture was not included in the ban to protect the economy and businesses given to the size of the manufacturing industry in the UK.

7.6 A full copy of the government response is available from: Summary of responses and government response - GOV.UK (www.gov.uk)[4].

7.7 On 24 April 2024 the draft instrument was notified to the World Trade Organisation under the Technical Barriers to Trade Agreement ("TBTA"). No objections have been made pursuant to notification.

8. Applicable Guidance

8.1 In England, this instrument will be enforced by local authorities and their trading standards officers in accordance with future published guidance. The legislation will provide for fixed monetary penalties and non-compliance penalties. The guidance for enforcement officers will be issued by local authorities in advance of this instrument entering into force. The guidance will assist manufacturers, suppliers, retailers and the public in understanding the enforcement and sanctions regime. Defra intends to raise awareness of the new legislation by meeting representatives and providing an explanation to local authorities on what is included in the restrictions and the exemptions.

8.2 Defra will also publish guidance for businesses and the public on gov.uk.

[3] https://consult.defra.gov.uk/wet-wipes-1/wet-wipes-containing-plastic/
[4] https://www.gov.uk/government/consultations/wet-wipes-containing-plastic-proposed-ban-on-the-manufacture-supply-and-sale/outcome/summary-of-responses-and-government-response

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 The net present social value (NPSV) of the ban is -£217m (2019 prices, 2020 present value), although this excludes some environmental and human health benefits (from reduced micro-plastics entering the environment and food chain) which could not be quantified.

9.3 There is no anticipated impact from this instrument on charities or voluntary bodies. The impact on businesses is primarily due to the impacts on domestic producers of the banned items and the higher price of producing plastic free wet wipes. Retail businesses selling wet wipes are estimated to face small transition costs and domestic primary plastic producers are estimated to face small costs associated with a loss of demand for primary plastic. Increased costs to business may be passed onto consumers through higher retail prices for wet wipes. Based on an 85% cost pass through rate we estimate this will cost consumers £1.09 per household annually on average.

9.4 The legislation will impact small and micro retail businesses, although costs to retail businesses are expected to be low relative to their revenue. There are no known small or micro domestic wet wipe producers expected to be impacted by the ban. Small and micro primary plastic producers may experience loss of sales of primary plastic for use in wet wipes, although these costs are expected to be small relative to the size of the industry.

9.5 To minimise the impact of the requirements on small or micro businesses (employing up to 50 people), there is an 18-month transition period between when the legislation is made until it is commenced in order to allow businesses to adapt and develop plastic free alternatives. Furthermore, to reduce the economic impact on manufacturers in England, manufacture of wet wipes containing plastic will not be banned. This will allows manufacturers to continue to export wet wipes containing plastic abroad.

9.6 The regulations are estimated to cost the public sector less than £0.5m per year on average. These costs include monitoring and enforcement costs as well as increased waste management costs due to the increased weight of plastic free wet wipes compared to those containing plastic.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This instrument will be subject to regular review. The obligations are set out in regulation 14 and include:

(i) a review of the operation of the provisions in Part 3 of this legislation (enforcement and civil sanctions) and the Schedule, as soon as practical, once 3 years has passed from the date on which this instrument comes into force, as required by section 67 of the Enforcement and Sanctions Act 2008; and

(ii) a review of the regulatory provision (including Part 3 and the Schedule) at least every 5 years from the date this instrument comes into force, as required

by the Small Business, Enterprise and Employment Act 2015. The conclusions of such reviews are to be published.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, Emma Hardy, has made the following statement regarding Human Rights:

"In my view the provisions of the Environmental Protection (Wet Wipes Containing Plastic) (England) Regulations 2024) are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").