EXPLANATORY MEMORANDUM TO

THE SINGLE USE CARRIER BAGS CHARGE (AMENDMENT AND REVOCATION) REGULATIONS (NORTHERN IRELAND) 2022

2022 No. 000

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (the Department) to accompany the Statutory Rule and is laid before the Northern Ireland Assembly.

1.2 The Statutory Rule is made under powers conferred on it by sections 77(2), 90(2)(b) and 90(3)(a) and (b) of, and paragraphs 1, 2, 4 and 7 of Schedule 6 to, the Climate Change Act 2008 and is subject to the draft affirmative resolution procedure. It will come into operation on 1st April 2022.

2. Purpose of the instrument

2.1 The Statutory Rule amends the Single Use Carrier Bags Charge Regulations (Northern Ireland) 2013 to:

- require sellers to charge customers at least 25p for each carrier bag supplied new;
- amend how the net proceeds of the charge ("the levy") payable by sellers to the Department should be calculated;
- amend the existing exemption from the levy on carrier bags priced at 20p and above ("the threshold") to bags priced greater than £5;
- amend the record keeping requirements to reflect the new 25p charge;
- remove the existing exemptions from the levy for:
    - bags for purchases on board ships, trains, aircraft, coaches or buses;
    - bags for purchases within "restricted areas" in airports, with the exception of sealed transit bags;
    - gusseted liners; and
- remove the three existing exemptions for smaller bags from the levy and introduce a new exemption for bags up to one overall size and made of any material in order to simplify the process for consumers and retailers.

2.2 The Statutory Rule also revokes the Single Use Carrier Bags Charge (Amendment) Regulations (Northern Ireland) 2021 (S.R. 2021 No. 338).

3. Background

3.1 In Northern Ireland, the 5p Carrier Bag Levy was introduced in 2013 and since then it has removed in excess of 1.7 billion bags from circulation delivering significant tangible results on the initial policy objective of protecting the environment by regulating against the unnecessary use of bags. It is the broadest and most detailed of all the carrier bag levies and charging regimes across the UK in that it includes bags of all material, including paper. All retailers who dispense bags must charge the levy and the Department can demonstrate a high level of compliance across the NI retail sector.

3.2 Evidence gathered across the NI retail sector outlines that since the introduction of the levy, a significant number of the large retailers have already increased the price of their bags to more than 5p. It is clear that despite these consistent and ongoing increases, consumers across NI have continued to purchase a range of bags at a cost of up to and over 20p or frequently at £1 or more.

3.3 A high quantity of these bags are heavier and thicker and have a highly adverse environmental impact. Many go to landfill where they take longer to degrade than 'single use' bags and in the worst case scenario some end up polluting our watercourses. Change is needed to positively redress and re-educate both customer and retailer behaviours, also given that the market is now swamped with heavy duty bags priced at 20p or more, only by increasing the levy to 25p on all bags can a significant positive environmental change and outcome be delivered.

3.4 With the amendment of the exemption relating to the 20p threshold whereby bags sold at 20p or more do not attract the levy, all retailers will be required to charge a 25p levy on all bags they dispense with a price up to and including £5.

4. Consultation

4.1 A public consultation on the policy proposals was carried out between 1 June and 27 July 2021. A total of 531 responses were received from a broad range of stakeholders including retailers, representative bodies and members of the public. The majority of responses (63%) were from members of the public, with small/medium retailers providing 28% of responses.

4.2 Some of the main responses showed that 83% agreed the levy had proved successful to date, 88% had become more aware of environmental benefits of using fewer carrier bags, 70% of respondents either strongly agreed or agreed that a levy should apply to all bags regardless of price, 49% had noticed less waste and litter, with 32% stating the main benefit of the carrier bag levy was educating citizens to be more environmentally friendly.

4.3 The consultation responses overall indicate support for the levy and for the wider NI environmental sector with interest in where and how proceeds are allocated. The education of retailers and the public was highlighted as important and some respondents referred to the need for a circular environmental policy.

5. Equality Impact

5.1 The Department is required under section 75 of the Northern Ireland Act 1998 to screen the proposed changes to ascertain if an Equality Impact Assessment is required. A screening exercise was carried out as part of the policy consultation and no equality issues were identified, therefore no impact assessment has been completed in respect of this SR.

6. Regulatory Impact

6.1 The Department carried out a Regulatory Impact Assessment as part of the policy consultation which can be accessed at:

https://www.daera-ni.gov.uk/consultations/consultation-proposed-changes-carrier-bag-levy

6.2 The Regulatory Impact Assessment considered a range of options, including do nothing, and increase of the charge to 10p, 20p or 25p. These options were assessed

against the objectives of achieving further reductions in carrier bag consumption and raising revenue for environmental projects.

6.3 Using the available data, research determined that 65% of consumers in Northern Ireland were already paying over 10p to purchase a carrier bag and, as such, neither retailer nor customer behaviour would be positively impacted by a revised 10p levy. Analysis also revealed that 25% of consumers were also already paying over 20p for a carrier bag and as above, an increase to 20p would not positively impact behaviours or indeed engender a positive reduction in consumption reduction. A 25p levy was identified as the preferred option as virtually all consumers would be impacted by an increase to 25p.

7. Rural Needs Impact

7.1 A screening exercise was carried out as part of the policy consultation and no rural needs implications were identified. A separate screening exercise was not carried out in respect of this SR.

8. Financial Implications

8.1 It is anticipated that the increase to the levy will generate additional income for the Department to fund environmental projects across Northern Ireland. Proposals regarding the future use of this additional income will be considered as part of the appropriate In Year Monitoring and Budget exercises.

9. Section 24 of the Northern Ireland Act 1998

9.1 The Statutory Rule does not have any human rights implications nor is it incompatible with EU law. It, therefore, complies with the requirements of section 24 of the Northern Ireland Act 1998.

10. EU Implications

10.1 Not applicable.

11. Parity or Replicatory Measure

11.1 The Statutory Rule is not necessary for parity elsewhere.

12. Additional Information

12.1 N/A

13. Contact

13.1 Mark Allison at the Department of Agriculture, Environment and Rural Affairs: Telephone: 028 9056 9486 or email: mark.allison@daera-ni.gov.uk can be contacted with any queries regarding the instrument.

13.2 Dave Foster at the Department of Agriculture, Environment and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.