POLICY NOTE

THE SINGLE USE CARRIER BAGS CHARGE (CORONAVIRUS) (SCOTLAND) AMENDMENT REGULATIONS 2021

SSI 2021/XXX

The above instrument was made in exercise of the powers conferred by sections 88 and 96(2) of the Climate Change (Scotland) Act 2009 and all other powers enabling them to do so. The instrument is subject to the affirmative procedure.

Purpose of the instrument. This instrument temporarily removes the requirement for retailers and catering establishments to charge for single use carrier bags used for the delivery of groceries, collection of groceries ordered in advance by their customers, and the delivery or collection of takeaway food.

Policy Objectives

Currently, the Single Use Carrier Bags Charge (Scotland) Regulations 2014 stipulate that retailers are required to apply the minimum charge of £0.05 to any single use carrier bags (SUCBs), including those used for delivery or customer collection of pre-ordered groceries. Similarly, the charge should be applied for the delivery of food or drink from restaurants or takeaway facilities. Customers should always have the option of not taking any SUCBs and thereby avoiding the charge. This has led to the widespread adoption of crates for both delivery and collection, which can require significant interaction between staff and customers and take time.

At the time of the first Covid-related lockdown, retailers identified that being able to supply all delivery and collection services using SUCBs would support efforts to maintain the grocery supply chain in the following ways:

- It would speed up deliveries at a time when demand for them is increasing, allowing drivers to reach more customers.
- It would reduce contact between drivers and customers, reducing the risk of transmission, and allow deliveries to be made to those self-isolating.
- It would reduce risk of contamination from the crates being passed from driver to customer, or from drivers going into homes to offload crates.

It has also been noted that, for a variety of reasons, some people rely on delivery of pre-prepared meals for hot food or to continue to receive food at all. Furthermore, a wide range of catering establishments are offering delivery services in order to maintain a service for customers. These types of delivery are subject to similar issues identified above for the delivery or collection of groceries.

As noted above, a principle of the charge is that customers should have the option of not paying it by choosing a bagless option or to use their own bag. Therefore, a situation where a charge is being levied without the customer having an option to avoid it does not match the aim of the Regulations. During the first lockdown period, The Single Use Carrier Bags Charge (Scotland) Amendment Regulations 2020 SSI 2020/118 amended the 2014 Regulations to introduce a new exemption from the requirement to charge for single use carrier bags when they are being used:

• for delivery of groceries that have been purchased through any form of ordering system.
• to facilitate collection of pre-ordered groceries.
• for delivery of pre-prepared food or drinks purchased for delivery or collection as part of a takeaway food service.

This exemption was in force from the date the Regulations come into force, until 0001 hours on 3 October 2020, recognising that it was an emergency measure to support efforts to contain the outbreak of Covid-19 and to maintain the supply of food. The exemption lapsed automatically, without need for further amendments. At the time, it was recognised that a further Instrument would be required if Scottish Ministers deem it appropriate to extend the exemption further. That situation has now arisen. Given the more virulent strain of Covid now in circulation and the imposition of stricter lockdown measures, advice from public health experts is that the use of single use carrier bags for deliveries is a way of reducing the potential for surface or interpersonal transmission. The new amendment regulations are due to be in place until 31 May 2021.

These Regulations are being made under the affirmative process required by the Climate Change (Scotland) Act 2009. As they are not the first Regulations made under this power, the 'super-affirmative' procedure does not apply. Furthermore, due to the urgent nature of the exemption being applied a shortened timeframe has been agreed with Parliament for the affirmative procedure.

Consultation
Due to the nature of this Instrument in responding to an immediate concern, no formal consultation has been carried out on it. It does, however, amend a set of existing Regulations that underwent a normal consultation process and was, furthermore, subject to a 'super affirmative' scrutiny in Parliament when they were introduced in 2014. This Instrument re-introduces an exemption to an existing set of exemptions, and does not fundamentally change the nature or intent of the amended Regulations.

It should be noted that The Single Use Carrier Bags Charge (Scotland) Amendment Regulations 2020 SSI 2020/118 was introduced at the request of stakeholders in the grocery retail sector, and this Instrument re-instates the exemption they requested. We have engaged with the same stakeholders in advance of laying these Regulations.

Impact Assessments
Due to the nature of this Instrument and the curtailed timeframe for its introduction to support response to the pandemic, no impact assessments have been completed for it. Furthermore, this Instrument amends a set of Regulations which were subject to normal impact assessments when they were introduced in 2014.

Financial Effects

The Cabinet Secretary for Environment, Climate Change and Land Reform confirms that no BRIA is necessary as the instrument has no significant financial effects on the Scottish Government, local government or on business. The Single Use Carrier Bags Charge (Scotland) Regulations 2014 which this Instrument amends were subject to a BRIA which did identify some business impacts. However, this Instrument relaxes some of the provisions in the Regulations rather than introducing new restrictions.

Scottish Government Environment and Forestry Directorate
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