



# Environment (Wales) Act 2016

2016 anaw 3

## PART 3

### CHARGES FOR CARRIER BAGS

*Regulations about charges for carrier bags*

#### 54 Meaning of “carrier bag”

In this Part, “carrier bag” means a bag supplied for the purpose of—

- (a) enabling goods to be taken away from the place where they are sold, or
- (b) enabling goods to be delivered.

#### 55 Requirement to charge

- (1) The Welsh Ministers must make regulations under this section (“carrier bag regulations”).
- (2) Carrier bag regulations may require sellers of goods to charge for the supply of carrier bags of descriptions specified in the regulations in the circumstances mentioned in subsection (3).
- (3) The circumstances are that the goods are—
  - (a) sold at or from a place in Wales, or
  - (b) intended to be delivered to a person in Wales.
- (4) The regulations may specify a description of carrier bag by reference (for example) to—
  - (a) the bag’s size, thickness, construction, composition or other characteristics,
  - (b) the bag’s intended use,
  - (c) the price charged by the seller of goods for supplying the bag (excluding any charge required by the regulations),or any combination of those factors.

- (5) The regulations may—
  - (a) specify the minimum amount that must be charged for a carrier bag, or
  - (b) provide for that amount to be determined in accordance with the regulations.
- (6) In this Part, “the charge” means any charge for the supply of carrier bags made in accordance with carrier bag regulations.

## **56 Sellers of goods**

- (1) In this Part, “seller of goods” means a person who sells goods in the course of a business.
- (2) For the purposes of subsection (1), a person is acting in the course of a business if the person is—
  - (a) carrying on any business or undertaking, whether for profit or not, or
  - (b) exercising any functions of a public nature.
- (3) Subsections (1) and (2) are subject to any provision made by carrier bag regulations about persons who are, or are not, to be regarded as sellers in relation to goods.
- (4) Carrier bag regulations may make provision which applies to—
  - (a) all sellers of goods,
  - (b) specified sellers of goods,
  - (c) sellers of goods of a specified description, or
  - (d) sellers within paragraph (b) and sellers within paragraph (c).
- (5) The regulations may specify a description of seller by reference to—
  - (a) the place or places at or from which a seller supplies goods;
  - (b) the type of goods that a seller supplies;
  - (c) the value of goods that a seller supplies;
  - (d) a seller’s turnover or any part of the turnover;
  - (e) a seller’s arrangements for applying the net proceeds of the charge (see section 57);
  - (f) any other factor that the Welsh Ministers consider appropriate, whether or not that factor is of the same kind as those listed in paragraphs (a) to (e).

## **57 Application of proceeds**

- (1) Carrier bag regulations must require the net proceeds of the charge to be applied to charitable purposes which—
  - (a) relate to environmental protection or improvement, and
  - (b) directly or indirectly benefit the whole or any part of Wales (whether or not they also benefit any other area).
- (2) But the regulations must provide for an exception enabling a seller of goods to apply the net proceeds of the charge to other charitable purposes where—
  - (a) the seller has, within a specified period occurring before provision made under subsection (1) first comes into force, applied amounts received by way of charges for carrier bags to those purposes, and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the seller has given notice of having applied amounts to those purposes as mentioned in paragraph (a) and of the seller's wish to be able to apply some or all of the net proceeds of the charge to those purposes.
- (3) The regulations may make provision—
  - (a) about how, when and to whom notice must be given;
  - (b) about information that must be provided when giving notice;
  - (c) for the exception to apply subject to conditions.
- (4) The provision made by the regulations under subsection (1) may require a seller of goods to apply the net proceeds of the charge—
  - (a) to such charitable purposes within that subsection as the seller may determine, or
  - (b) where the regulations specify one or more charitable purposes, to those specified purposes or to such of them as the seller may determine.
- (5) Carrier bag regulations may (among other things)—
  - (a) provide for the net proceeds of the charge to be treated as having been applied in accordance with provision made under this section if they are accepted by specified persons or persons of a specified description (or both);
  - (b) make provision about the arrangements under which the net proceeds of the charge are to be given by sellers to the persons mentioned in paragraph (a) or any other person;
  - (c) require persons who accept any net proceeds of the charge to apply the proceeds to charitable purposes in accordance with provision made under subsection (1) or (2).
- (6) The regulations may—
  - (a) provide for recovery by the Welsh Ministers of sums equal to the proceeds of the charge that have been accepted or applied otherwise than in accordance with provision made under this section;
  - (b) provide for the application of sums recovered by the Welsh Ministers to charitable purposes within subsection (1) (including such charitable purposes within that subsection as the Welsh Ministers may determine);
  - (c) provide that sums recovered by the Welsh Ministers are not to be paid into the Welsh Consolidated Fund.
- (7) Carrier bag regulations may make provision that applies to persons other than sellers of goods, if the Welsh Ministers consider that such provision is appropriate for the enforcement of provision made under this section or for otherwise making such provision effective.
- (8) In this Part, “charitable purpose” has the meaning given in the [Charities Act 2011 \(c. 25\)](#) (see section 2 of that Act); but carrier bag regulations may provide for the definition to apply for the purposes of this Part with such modifications as the Welsh Ministers consider necessary or expedient for securing an appropriate application of the net proceeds of the charge.

*Administration and enforcement***58 Administration**

- (1) Carrier bag regulations may appoint a person (an “administrator”) to administer provision made by the regulations.
- (2) More than one person may be appointed as administrator.
- (3) The regulations may confer powers, or impose duties, on an administrator
- (4) The provision that may be made by virtue of subsection (3) includes provision—
  - (a) making modifications to any enactment applying to the administrator, or
  - (b) for any such enactment to apply, with or without modifications, for the purposes of the regulations.
- (5) References in this Part to an administrator include a person appointed by an administrator.

**59 Record-keeping and publication of records**

- (1) Carrier bag regulations may require records to be kept relating to charges made by sellers of goods for carrier bags (whether or not the charges are required by the regulations).
- (2) The regulations may require—
  - (a) the records, or such other information as may be specified, to be published at such times and in such manner as may be specified;
  - (b) the records, or such other information as may be specified, to be supplied on request and in such manner as may be specified to—
    - (i) the Welsh Ministers,
    - (ii) an administrator, or
    - (iii) members of the public.
- (3) The regulations may (for example) require the publication or supply of records or information relating to any of the following—
  - (a) the amount received by a seller of goods by way of charges for carrier bags (whether in accordance with the regulations or otherwise);
  - (b) the seller’s gross or net proceeds of the charge;
  - (c) the uses to which the net proceeds of the charge have been put.
- (4) Carrier bag regulations may also require the publication or supply of records or information relating to the amount that a person has received from a seller by way of net proceeds of the charge to be applied to charitable purposes.

**60 Enforcement**

- (1) Carrier bag regulations may confer or impose powers or duties on an administrator to enforce provision made by the regulations.
- (2) The regulations may (for example) confer powers on an administrator to—
  - (a) require the production of documents or the provision of information, or
  - (b) question a seller of goods or officers or employees of a seller.

- (3) The regulations may also confer powers on an administrator to question a person the administrator reasonably believes has received any net proceeds of the charge or officers or employees of such a person.
- (4) Carrier bag regulations that confer a power within subsection (2) must contain provision for ensuring that the power is exercised by an administrator only where the administrator reasonably believes there has been a failure to comply with a requirement of the regulations.

## **61 Civil sanctions**

Schedule 1 makes provision about civil sanctions.

### *General*

## **62 Regulations under this Part**

- (1) The power to make carrier bag regulations is to be exercised by statutory instrument.
- (2) The power to make carrier bag regulations includes power—
  - (a) to make different provision for different purposes or cases;
  - (b) to make incidental, supplementary, consequential, transitional or saving provision.
- (3) Provision under subsection (2)(b) may amend, repeal or revoke an enactment.
- (4) A statutory instrument containing carrier bag regulations may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

## **63 General interpretation of this Part**

In this Part—

- “carrier bag” (“*bag siopa*”) has the meaning given by section 54;
- “carrier bag regulations” (“*rheoliadau bagiau siopa*”) has the meaning given by section 55;
- “the charge” (“*y tâl*”) has the meaning given by section 55;
- “charitable purpose” (“*diben elusenmol*”) is to be interpreted in accordance with section 57(8);
- “gross proceeds of the charge” (“*enillion gros o’r tâl*”) means the amount received by a seller of goods by way of the charge;
- “net proceeds of the charge” (“*enillion net o’r tâl*”) means a seller’s gross proceeds of the charge reduced by such amounts as may be specified;
- “seller of goods” (“*gwerthwr nwyddau*”) is to be interpreted in accordance with section 56;
- “specified” (“*penodedig*”) means specified in carrier bag regulations.

## **64 Minor and consequential amendments and repeals**

Part 2 of Schedule 2 contains minor and consequential amendments and repeals relating to this Part.