

*These notes refer to the Carrier Bags Act (Northern Ireland)
2014 (c.7) which received Royal Assent on 28 April 2014*

Carrier Bags Act (Northern Ireland) 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Comments are not given where the wording is self explanatory.

Section 1 – Extension of the 2008 Act to carrier bags

Section 1 amends the 2008 Act to make provision for a minimum charge on carrier bags – that is, it removes the restriction to single use bags.

Section 2 – Regulations under Schedule 6 to the 2008 Act

Section 2 amends section 77(4) of the 2008 Act to require that any regulations made by the Department which increase the amount of the minimum charge for a carrier bag are subject to the Northern Ireland Assembly's affirmative resolution procedure.

It also applies section 17(5) of the Interpretation Act (Northern Ireland) 1954¹ to a power to make regulations under Schedule 6 to the 2008 Act. This gives the Department greater discretion as to how it applies the carrier bag charging requirements. It would, for example, allow the Department, through regulations, to make different provision for different cases, or to provide for exclusions from the requirements of the regulations.

Section 3 – Requirement to charge

Section 3 amends paragraph 2 of Schedule 6 to the 2008 Act.

The amendment allows regulations to require that the minimum charge be applied whether or not the bags that are supplied to a customer are actually used to carry away (or to deliver) goods purchased from the place where the bag is supplied at the time the bag is supplied. It is sufficient that the bags are designed for that purpose.

Section 4 – Sellers

Section 4 amends paragraph 3 of Schedule 6 to the 2008 Act.

¹ 1954 c.33

Paragraph 3 provides for a “seller” of goods to be defined in regulations. It also provides that the Department may use the regulations to apply the charge to a range of different sellers. These include all sellers of goods, sellers named in the regulations and sellers identified by reference to four specified factors - the place from which the goods are supplied, the type and value of goods supplied and the seller’s turnover.

The purpose of the amendment is to add a further specified factor – the number of a seller’s full-time equivalent employees. The amendment also sets out how the number of full-time equivalent employees is to be calculated.

Section 5 - Payment of the charge

Section 5 amends paragraph 4A of Schedule 6 to the 2008 Act.

Paragraph 4A provides that regulations may require a seller of carrier bags to pay the gross proceeds or the net proceeds of the charge to the Department. The amendment allows the Department to specify how, and at what intervals, the amount due is to be paid. It also gives the Department the power to impose interest payments, in the event of late payment.

Section 6 – Carrier bags defined by price

Section 6 amends paragraph 5 of Schedule 6 to the 2008 Act.

Paragraph 5 provides that carrier bags which are to be included in regulations may be defined by reference to technical specifications such as a bag’s size, thickness, construction or composition and/or its intended use. The amendment also allows such bags to be defined by reference to their price.

Section 7 – Records and enforcement

Section 7 amends paragraphs 7 and 8 of Schedule 6 to the 2008 Act.

Paragraph 7 gives the Department power, exercisable through regulations, to require sellers to keep and make available certain records and information in relation to the minimum charge. This amendment provides that such records and information may include details of the payments of the gross and net proceeds of the minimum charge to the Department.

Paragraph 8 gives the Department powers to enforce regulations made under Schedule 6 to the 2008 Act. In particular – where there is reason to believe that a seller has failed to comply – the Department may question a seller or require a seller to provide documents and information.

Section 7 provides for routine monitoring activity by the Department by removing the requirement of reasonable belief of failure to comply. It also provides the Department with additional enforcement powers, exercisable through regulations, to permit the inspection, retention and copying of documents.

Section 8 – Civil sanctions

Section 8 repeals paragraph 24(6) of Schedule 6 to the 2008 Act.

Paragraph 24 requires the Department to carry out a review of the operation of civil sanctions in relation to a breach of the carrier bag charging regulations. The repeal removes the requirement to lay a copy of any such review before the Assembly.

Section 9 – Amendments of the 2013 Regulations

Section 9 amends the 2013 Regulations to:

- extend their scope from single use carrier bags to “carrier bags”; and
- amend the existing exemptions provision to add 2 additional exemptions for bags with a retail price of 20 pence or more and bags that are issued as free replacements for ‘bags for life’.

The section also specifies that this extension of charging will commence on 19 January 2015.

Section 10 – Report on biodegradable carrier bags

Section 10 requires the Department to prepare a report on biodegradable carrier bags within 18 months of the Act receiving Royal Assent.

The report must consider whether any biodegradable bags should be exempt from the charge, the criteria for any such exemptions and how such exemptions would be implemented.

The report must be published and must be laid before the Assembly.

Section 11 - Review

Section 11 requires the Department to prepare a report on the operation of the carrier bag charging provisions. The report, which must be prepared within 3 years of the section coming into operation, must include an assessment of the effectiveness of the legislation and whether any amendments should be made. The report must be published and must be laid before the Assembly.

Section 11 also provides for an ‘ad hoc’ review of exemptions to the requirement to charge for bags.

Section 12 – Short title

Section 12 provides a short title for the Act.