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DRAFT STATUTORY RULES OF NORTHERN IRELAND

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**2012 No.**

**The Single Use Carrier Bags Charge  
Regulations (Northern Ireland) 2012**

**PART 6**

**Enforcement and Non-compliance**

**Enforcement powers**

**14.**—(1) The Administrator may exercise any of the powers in paragraph (2) for the purposes of enforcement.

(2) The powers are—

- (a) to make test purchases of goods for the purposes of ascertaining whether these Regulations are being complied with;
- (b) to inspect any goods and to enter any premises at any reasonable time (other than domestic premises) for the purposes of ascertaining whether these Regulations are being complied with;
- (c) if the Administrator reasonably believes that there has been a failure to comply with a requirement of these Regulations—
  - (i) to question a seller or an officer or employee of a seller;
  - (ii) to require the production of documents or the provision of information.

(3) In this regulation “domestic premises” means premises used wholly or mainly as a private dwelling.

(4) The Administrator seeking to exercise a power under paragraph (2)(b) or (c) shall produce evidence of identity and authority if requested by a person who is, or appears to be—

- (a) the seller, or an officer or employee of the seller;
- (b) an owner or occupier of any premises in respect of which the Administrator seeks to exercise the power concerned.

(5) Nothing in paragraph (2)(c)(ii) shall compel production of any document in respect of which a person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the County Court or High Court.

**Non-monetary discretionary requirements: enforcement**

**15.** Schedule 4 makes provision for the imposition of a monetary penalty in cases where a seller fails to comply with a non-monetary discretionary requirement and that Schedule has effect accordingly.

### **Enforcement costs recovery**

16.—(1) The Administrator may serve an enforcement costs recovery notice on a seller on whom a discretionary requirement is imposed requiring that seller to pay the costs incurred by the Administrator in relation to that discretionary requirement up to the time of its imposition (“enforcement costs”).

(2) Enforcement costs shall include, in particular—

- (a) investigation costs;
- (b) administration costs;
- (c) costs of obtaining expert advice (including legal advice).

(3) An enforcement costs recovery notice shall specify the amount required to be paid and shall include information as to—

- (a) how payment may be made;
- (b) the date by which payment shall be made;
- (c) the consequences of failure to make payment by the date it is due; and
- (d) the right of appeal.

(4) The date referred to in paragraph (3)(b) shall be at least 28 days later than the date on which the enforcement costs recovery notice is served on the seller.

(5) Enforcement costs shall be paid by the seller by the date specified in the enforcement costs recovery notice.

(6) Paragraph (5) is subject to the remaining provisions of this regulation and to regulation 20(4) (suspension of requirements and notices pending appeal).

(7) If a decision of the Administrator under this regulation is the subject of an appeal, then to the extent that that decision is upheld, the seller shall pay the enforcement costs within 28 days of the day on which the appeal is determined.

(8) The Administrator shall provide a detailed breakdown of the costs specified in an enforcement costs recovery notice if requested to do so by the seller on whom that notice is served.

(9) A seller is not liable to pay any costs shown by that seller to have been unnecessarily incurred.

(10) A seller may appeal against—

- (a) a decision of the Administrator to impose a requirement to pay costs;
- (b) a decision of the Administrator as to the amount of those costs.

### **Debt recovery**

17. The Administrator may recover as a civil debt, any amount of unpaid—

- (a) fixed monetary penalty;
- (b) variable monetary penalty;
- (c) non-compliance penalty;
- (d) enforcement costs; or
- (e) late payment penalty.

### **Publicity for imposition of civil sanctions**

18.—(1) The Administrator may give a publicity notice to a seller on whom a civil sanction has been imposed.

(2) The following information shall be included in a publicity notice—

- (a) the type of civil sanction imposed;
  - (b) the grounds on which the civil sanction was imposed;
  - (c) if the civil sanction was a fixed or variable monetary penalty, the amount of that penalty;
  - (d) if the civil sanction was a non-monetary discretionary requirement, the nature of that requirement.
- (3) A publicity notice shall—
- (a) specify the manner of publication required;
  - (b) specify the time within which publication is required;
  - (c) require the seller to provide evidence to the Administrator of compliance with the publicity notice within a time specified in that notice.
- (4) If a seller fails to comply with a publicity notice within the time specified under paragraph (3)(b), the Administrator may—
- (a) publicise the information required to be publicised; and
  - (b) recover the costs of publication from the seller.
- (5) Where information is publicised under paragraph (4)(a) it shall be done in a way likely to attract the attention of the public.