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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under the powers in sections 88, 89, 90 and 96(2) of the Climate Change (Scotland) Act 2009 (asp 12), which enable the Scottish Ministers to require suppliers of goods to charge for the supply of carrier bags of any type.

They provide for suppliers of goods as defined in regulation 4 to apply a minimum consideration of 5 pence for certain single use carrier bags supplied new for the purposes of taking goods away or of enabling goods to be delivered.

Regulation 2 defines terms used in these Regulations, with the effect in particular that a “single use carrier bag” is a carrier bag fitting a description in regulation 3(2), (3), (4) or (5).

Regulation 3 specifies the type of carrier bags which attract the minimum charge, with the effect that the requirement to charge the minimum consideration applies to certain types of single use carrier bag as follows:—

- regulation 3(2) has the effect that the requirement to charge applies to a bag made from paper or other types of natural material, other than a cloth bag, or a bag intended for multiple re-use (for which see the definition in regulation 3(6));
- regulation 3(3) has the effect that the requirement to charge applies to a plastic bag which is no more than 49 micrometres thick;
- regulation 3(4) has the effect that the requirement to charge applies to a plastic bag that is no more than 404 millimetres wide, or no more than 404 millimetres high, or no more than 439 millimetres wide and 439 millimetres high; and
- regulation 3(5) has the effect that the requirement to charge applies to a plastic bag not intended for multiple re-use, so that the charge applies to such bags where they would not otherwise be subject to the charge under regulation 3(3) or (4).

Regulation 3 also has the effect that the charge does not apply to a small paper bag or a small plastic bag as those terms are defined in regulation 3(7).

Regulation 5 provides for these Regulations to be enforced by the local authority.

Regulation 6 provides for the minimum charge to be applied to bags supplied new for taking goods away, or for delivery of goods. The charge does not therefore apply to used bags.

Regulation 7 and the Schedule make provision for circumstances in which the requirement to charge does not apply.

Regulation 8 has the effect that Part 3 of these Regulations, which makes provision in respect of the net proceeds raised by the charge and the keeping and producing of records, applies only to suppliers who have 10 or more full-time equivalent members of staff at the beginning of any reporting year.

Regulation 9 provides for the supplier to ascertain the net proceeds raised by the charge by deducting the amounts specified in the regulation from the consideration paid for single use carrier bags in a reporting year as defined in regulation 2.

Regulation 10 provides for a supplier to keep the specified records, and regulation 11 enables a local authority to request that certain records are produced to the authority.

Regulation 12 provides for offences, and for penalties on conviction of an offence.

Regulation 13 provides for the powers of an enforcement authority.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Single Use Carrier Bags Charge (Scotland) Regulations 2014 No. 161

A draft of these Regulations was notified to the European Commission in accordance with Article 8 of the Technical Standards Directive ([Directive 98/34/EC](#)).

A Business Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from the Scottish Government Environmental Quality Division, Area 1-D North, Victoria Quay, Edinburgh, EH6 6QQ, and online at [www.legislation.gov.uk](http://www.legislation.gov.uk).