
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

The Single Use Carrier Bags
Charge (Scotland) Regulations 2014

PART 4

Offences and enforcement

Offences

- 12.—(1) It is an offence for a supplier of a single use carrier bag to contravene regulation 6.
- (2) It is an offence for a supplier to whom Part 3 applies—
- (a) to contravene, without reasonable excuse, regulation 10;
 - (b) to knowingly or recklessly make a false entry in a record;
 - (c) to fail, without reasonable excuse, to comply with a request under regulation 11;
 - (d) to knowingly or recklessly give false or misleading information to the enforcement authority; or
 - (e) to otherwise obstruct or fail to assist the enforcement authority in the exercise of its functions under these Regulations.
- (3) A person guilty of an offence under paragraph (1) or (2) is liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment to a fine.
- (4) Where a supplier is charged with an offence under paragraph (1), it is a defence for the supplier to show that the supplier took all reasonable precautions and exercised all due diligence to prevent the offence being committed.
- (5) Where—
- (a) an offence has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
 - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.
- (6) In paragraph (5), “relevant individual” means—
- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, a member;

- (b) in relation to a Scottish partnership, a partner;
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Enforcement authority: enforcement powers

13.—(1) The enforcement authority has the powers described in paragraph (4) (the “enforcement powers”).

(2) The enforcement powers are exercisable by any officer of the enforcement authority authorised by the authority for that purpose.

(3) The enforcement powers are exercisable for the purpose of establishing whether these Regulations are being, or have been, complied with.

(4) The powers are—

- (a) to make test purchases of goods;
- (b) to inspect any goods;
- (c) to enter onto premises at any reasonable time;
- (d) to question a supplier or an officer, employee or agent of the supplier;
- (e) to require the production of documents; or
- (f) to require the provision of information.

(5) The power in paragraph (4)(c) is not exercisable in respect of domestic premises.

(6) The powers in paragraph (4)(e) and (f) are exercisable only where the enforcement authority reasonably believes that there has been a failure to comply with these Regulations.

(7) Documents must be produced and information must be given in such form, and in such manner, as the enforcement authority may reasonably require.

(8) A person seeking to exercise an enforcement power must produce evidence of the identity of the person, and of the authority of the person to exercise the power, to any person reasonably requiring evidence of such identity or authorisation.

(9) Nothing in this regulation compels the production of a document by a person who would be entitled to withhold production on the ground of confidentiality of communications on an order being made for the production of documents in an action in the Court of Session.