

## **POLICY NOTE**

### **THE ENVIRONMENTAL PROTECTION (COTTON BUDS) (SCOTLAND) REGULATIONS 2019**

**SSI 2019/271**

**The purpose of this instrument is to make it an offence to manufacture, supply, offer to supply or have in possession for supply plastic-stemmed cotton buds in Scotland.**

#### **Introduction**

1. The above instrument was made in exercise of the powers conferred by section 140(1)(b) and (c), (3)(c) and (d), and (9) of the Environmental Protection Act 1990 (“the Act”). The instrument is subject to negative procedure.

#### **Policy Objectives**

2. The instrument makes it an offence to manufacture plastic-stemmed cotton buds. It also makes it an offence to supply, offer to supply or have in possession for supply plastic-stemmed cotton buds. The aim of the instrument is to protect our marine environment from plastic pollution. The proposal to introduce legislation was made in January 2018. The UK Government has since committed to similar measures and the EU has published the Single-Use Plastic (SUP) Directive (Directive (EU) 2019/904), to be implemented by July 2021, meaning that single-use plastic-stemmed cotton buds will be banned on an EU-wide basis by July 2021.

#### **Consultation**

3. A public consultation entitled “Ban on manufacture and sale of plastic-stemmed cotton buds: proposal” took place in Scotland from 27 April – 22 June 2018. The consultation was made publicly available at <https://consult.gov.scot/> and publicised in the media. The consultation asked for comments on proposals for the implementation of a Scotland-wide ban on the manufacture and sale plastic-stemmed cotton buds which may cause harm to the marine environment.

4. A total of 847 responses to the consultation were received and 99.4% of respondents supported the ban. Most respondents were individuals (97%), and the organisations that responded included NGOs, Public Bodies and commercial organisations.

During the consultation the following issues were raised, resulting in the actions stated in the right-hand column of the table below:

Issue Raised	Result
<p>Scope of ban</p> <ul style="list-style-type: none"> <li>• Respondents stated that bioplastics should also be covered by proposed legislation.</li> </ul>	<ul style="list-style-type: none"> <li>• In the consultation document the scope of the proposed legislation is listed and classifies plastic as a synthetic polymeric substance that can be moulded, extruded or physically manipulated into various solid forms that retains its final manufactured shape during use in its intended applications. The proposed ban would therefore cover bioplastics as the only polymer not covered is a natural polymer that has not been chemically modified.</li> </ul>
<p>Sustainability of alternative products</p> <ul style="list-style-type: none"> <li>• Respondents were concerned that alternatives to the plastic-stemmed products should be sustainably sourced.</li> </ul>	<ul style="list-style-type: none"> <li>• In the consultation document there is reference to substitute stems which are made from fully natural materials such as paper. The Regulations dictate what material cannot be used to make cotton bud stems but are not prescriptive as to what can be used as an alternative. Provision regarding the sustainability of alternative products is beyond the scope of these Regulations.</li> </ul>

5. A full list of consultation respondents that are organisations is attached to the consultation report published on the Scottish Government website, <https://www.gov.scot/publications/plastic-cotton-bud-submission-consultation-response-report/pages/4/> It includes Scottish Water, Boots UK, Fidra and Marine Conservation Society.

6. On 31 August 2018 a public notice of the draft Environmental Protection (Cotton Buds) (Scotland) Regulations 2019 was placed in the Edinburgh and London Gazette. The notice provided a link to the draft Regulations and invited representations to be received by 14 September 2018. Representations were made by post by environmental charity Fidra which questioned the definition of “plastic”.

<b>Issue Raised</b>	<b>Result</b>
<p>Concern that the definition of plastic in the draft Regulations would not necessarily cover all polymers if they are a mix of synthetic and natural substances, or if they were biopolymers and therefore occasionally marketed as ‘biodegradable’.</p> <p>Original definition</p> <p><i>“plastic” means a synthetic polymeric substance that can be moulded, extruded or physically manipulated into various solid forms and that retains its final manufactured shape during use in its intended applications;</i></p>	<p>Marine Scotland discussed “plastic” definitions with science colleagues and with representatives of the chemicals industry within the UK Government Department for Business, Energy and Industrial Strategy (BEIS), and the European Oilfield Speciality Chemicals Association, (EOSCA). It was concluded that within the industry there was no current agreed definition for plastics, either at a UK or European level, that is applied across all working areas.</p> <p>We believe the original definition includes polymers of petro-chemical origin, semi-synthetic polymers, synthetic and natural polymer mixes and ‘biodegradable’ polymers, but does exclude any purely natural polymers which provide the basic structure of paper for example.</p>
<p>Concern that the definition of plastic referenced the material retaining its final manufactured shape during use in its intended application.</p>	<p>This was included in the original definition as this text was used for the Microbead Regulations and was agreed in a UK-wide consultation with wider stakeholders.</p>

7. On 18 January 2019 notification was given to the World Trade Organisation in accordance with the Technical Barriers to Trade Agreement. Representations were invited until 17 April 2019. No responses were received.

8. On 10 January 2019 notification was given to the European Commission under the Technical Standards and Regulations Directive (TSD). Representations were invited until 11 April 2019. The Commission responded to our TSD notification with an invitation to postpone the adoption of the notified draft regulations until the EU Single-Use Plastic (SUP) Directive had been adopted, or until 13 January 2020, whichever was soonest. The SUP Directive has now been adopted (and will be implemented by the Scottish Government in due course) so the Scottish Government is satisfied that the Regulations comply with the requirements of the EU TSD.

### **Impact Assessments**

9. A Business and Regulatory Impact Assessment has been completed on the effects of the instrument in Scotland.

10. No equality issues were raised as part of the consultation process and it is considered that a full Equality Impact Assessment is not required as the products are used indiscriminately across the population.

## **Financial Effects**

11. There is no financial impact of this policy on the Scottish Government, minimal impact on Local Government enforcement departments and minimal impact on Scottish industry as there are no known businesses manufacturing affected products in Scotland.

Scottish Government  
Marine Scotland Directorate

29 August 2019