INTRODUCTION

1. This document relates to the Environmental Levy on Plastic Bags (Scotland) introduced in the Scottish Parliament on 17 June 2005. It has been prepared by Mike Pringle MSP, the Member in Charge of the Bill with assistance from the Parliaments Non-Executive Bills Unit to satisfy Rule 9.3.3(a) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Member and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 43–EN.

POLICY OBJECTIVES OF THE BILL

Overview

2. The Bill aims to reduce the number of plastic bags in circulation to reuse them wherever possible and to recycle them after use as outlined in paragraphs 30 to 36 below. The policy intention behind the Bill is not to eradicate plastic bags or to promote any particular alternatives, for example paper bags, although it is accepted that alternatives may be sought. Under this proposal plastic bags will still be available for those customers who wish to pay the levy for them.

Key objectives

3. The Bill has 3 key objectives, these are:

   - protecting the environment both by the reduction in the number of plastic bags and by investing the money raised by the levy in local environmental projects;
   - assisting local authorities towards meeting the Scottish National Waste Plan targets by encouraging the reduction of plastic bags in circulation and the reuse of those that are; and
   - raising awareness of environmental issues such as recycling and litter.

Why introduce a levy on plastic bags?

4. Plastic bags are designed as a single use product, and are given away freely in large numbers. Many goods are already packaged and plastic bags are simply ‘add on’ packaging that
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has no essential purpose. Discarded plastic bags have a high visual and ecological impact on the environment.

5. The introduction of a levy will help to raise awareness of environmental issues and encourage people to reduce their use of plastic bags or to use reusable bags. It is anticipated that consumers will consider if they actually need extra packaging for their goods before automatically taking a plastic bag. The introduction of the levy, which will be collected and retained by local authorities to spend on environmental projects, will help to address some of the environmental issues that arise from plastic bag use. The money raised might for example be used in running local environmental initiatives such as litter clean ups and recycling campaigns.

6. The levy will provide environmental benefits on two fronts. The first is that by choosing not to take a plastic bag you will be contributing to the reduction of plastic bags in the environment. Secondly, if you do choose to take one, the 10p you pay for each bag will contribute towards environmental improvements in your local area. The levy directly leads to an environmental benefit. Customers will either be reducing environmental impact when they choose not to use a bag or will contribute financially to the environment if they do.

7. A levy on plastic bags would be a continuation of the UK environmental awareness and improvement policy which imposes other environmental taxes; for example:
   - Climate Change Levy: designed to persuade businesses to reduce their energy use and use energy from renewable sources.
   - Landfill Tax: this is to encourage businesses to produce less disposable waste and to look at other waste disposal methods. It is paid over and above the landfill fees paid by businesses and local authorities who dispose of waste in landfill sites;
   - Aggregates Levy: a tax on primary sand, gravel and rock that is either dug from the ground or dredged from the sea. The amount of the levy minimises the demand for these primary aggregates and makes the use of recycled and alternative materials more viable. The levy helps address the past environmental damage (noise, dust and loss of biodiversity) caused in the extraction of these materials as some of the proceeds from the Aggregates Levy are directed into a sustainability fund to finance environmental improvements.

BACKGROUND

Manufacture of plastic bags

8. A chemical substance called ethylene, which originates from oil and is a non renewable resource, undergoes a process called polymerisation to produce polyethylene. Depending on which conditions, such as levels of temperature, are used during the process, the polyethylene is produced as a thermoplastic in one of its three main forms. These thermoplastics are Low Density Polyethylene (LDPE), Linear Low Density Polyethylene (LLDPE) and High Density Polyethylene (HDPE). These are then normally sold in the form of pellets, chips or granules to be manufactured into plastic products which themselves are used to manufacture plastic bags.
9. HDPE is normally used to make ‘singlet’ bags, the kind most commonly found in large supermarkets, smaller retail outlets, fast food take away outlets and service stations. They can be branded with the name of the store or unbranded. LDPE is normally used to make ‘boutique’ style bags which are normally branded and used by outlets such as department and clothing stores which sell higher value goods. The bags are flexible, waterproof and have a high level of resistance to other chemicals.

10. It costs supermarkets approximately £4.50 for every 1000 (or 4.5p for 10) HDPE bags they supply to their customers.

Plastic bag use

11. The HM Treasury Plastic Bag Tax Assessment in December 2002 estimated that consumers in the United Kingdom used eight billion plastic bags a year or 134 bags for every person.

12. Although there are a few plastic bag manufacturers in Scotland and the rest of the United Kingdom, most of the plastic bags that are in circulation are manufactured abroad. Plastic bags after importation are then distributed within Scotland and the UK by companies specialising in printing and distribution to supermarkets and other retail outlets. In Ireland it was estimated that 1 in 5 plastic bags in circulation were manufactured in Ireland.

13. It has been estimated that each household in the UK has an average of 40 plastic bags stored in drawers and cupboards. Some are re-used once for carrying things like packed lunches or as bin liners. After this, along with others, they either enter the waste system, are discarded as litter or are recycled. This is particularly true of the HDPE supermarket bags.

Disposal

Plastic bags as litter

14. There are two ways that most plastic bags enter the litter stream. The first is intentional littering where the bags have been disposed of inappropriately as people have thrown them away or discarded them. This could be because the products or goods the plastic bags contained are consumed away from home, for example take away and fast food.

15. The second way is inadvertent littering where people have initially disposed of the bags into domestic or public waste bins. Thereafter they are accidentally blown from the waste bins perhaps during collection and transportation to landfill sites. Sometimes waste bins can be emptied by vandals or disturbed by animal interaction with the bins prior to collection taking place. Strong winds and frequency of collections also impact on inadvertent littering, for example, plastic bags placed on top of or around bins can be blown from the site.

16. As plastic bags are light in weight, they easily become windborne. They are also blown from landfill sites. They then remain in the environment until collected as litter. Meantime their

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1 Information provided to Scottish Parliament Information Centre by Carrier Bag Consortium
2 HM Treasury Plastic Bag Tax Assessment December 2002
3 Conclusions and Recommendations of Irish Consultancy Study on Plastic Bags
size makes them a very visible type of litter. They often become stuck in trees, bushes and along river banks and have the potential to contribute to flooding by blocking drains and gutters.

17. Plastic bags in the litter stream also pose a danger to animals, particularly wildlife. Small animals such as birds and hedgehogs become trapped in plastic bags. In 2003, the Scottish Society for the Prevention of Cruelty to Animals received 9 reports of animals trapped in plastic bags.\(^4\) Larger animals such as horses and cattle as well as whales and dolphins have been known to consume them. All such incidents can lead to the death of the animal.

18. Plastic bags are very resilient and any becoming litter stay in the environment until they are eventually picked up manually and taken to landfill sites. In Australia where 6.9 billion plastic bags are in circulation they have estimated that between 50-80 million end up discarded as litter per year. If the same percentage applies in Scotland this equates to between 7 and 11.5 million plastic bags per annum ending up in the litter stream.

**Plastic bags in landfill sites**

19. A landfill site is where solid waste is deposited. These are specially designed structures built either into or on top of the ground where the waste is isolated from the surrounding environment and buried. Once deposited the waste is usually compacted into either a thin layer or high density bales. It can also be pulverised and mixed into a material consisting of small particles. After this treatment it is buried under a layer of soil or similar substance.

20. There are three main ways in which plastic bags find their way into landfill sites. Most of them enter via domestic refuse; this can be following reuse in the home or by placing directly in the waste bin. The second way is through general refuse, where plastic bags are deposited in public waste bins. The third way is when plastic bags are collected as litter.

21. Landfills only bury waste; they are not designed to break it down. Thus current legislation is designed to ensure that landfill should be the last option. Other options such as recycling, minimisation, prevention and re-use should be considered before a disposal to landfill.

22. Landfill sites have an average lifespan of around 15 years and when full they can require aftercare treatment for up to 60 years. In 2001/2002 there were 257 operational landfill sites in Scotland and 110 ‘post closure’ landfill sites.\(^5\)

23. Landfill sites are subject to the Landfill Tax Regulations 1996 (SI 1996/1527).

24. Using landfill sites is an expensive option and space is at a premium. From April 2004 the standard rate for disposing of taxable waste was set at £15 per tonne. This increased by £3 per tonne in April 2005 and thereafter will increase by at least £3 per tonne per year until it reaches a rate of £35 per tonne. The methods of handling the waste in landfill, described in paragraph 19

\(^4\) Scottish Society for Prevention of Cruelty to Animals response to the Environmental Levy Bill Consultation Paper, 9 March 2003
\(^5\) Scottish Environment Protection Agency, Waste Data Digest 3
above, are used in conjunction with the tax to ensure that waste takes up the minimum space possible.

**Biodegrading**

25. Plastic bags take up to 20 years to biodegrade due to their lack of reaction with other chemicals in the environment. They provide some stability in landfills. This should not be jeopardised as many of those that are bought by consumers will still eventually end up in landfill sites along with plastic bags manufactured for the disposal of waste as their primary use which are exempt from the levy such as bin liners, garden refuse sacks, nappy sacks and dog waste bags.

**Raising environmental awareness**

26. The Scottish Executive’s National Waste Plan 2003 sets out its “vision for a resource efficient culture where waste reduction, reuse and recycling are part of everyday life for everyone”. The Plan sets out targets for Scottish local authorities to recycle and compost 25% of municipal (domestic) waste by 2006. In October 2004 this target was extended to 30% by 2008. The successful implementation of the plan will, by 2020, reduce the amount of municipal waste going to landfill from 90% to 30%.

27. Audit Scotland report on the performance indicators of the environmental and regulatory services of local authorities. Their latest report for 2003/2004 show that the levels of recycling achieved has increased by 2.7% from 9.6% to 12.3%. This is just below half the target set out in the last paragraph for 2006.

28. The Waste Plan also requires the quantity of biodegradable municipal waste disposed to landfill to reduce to below 1.5 million tonnes by 2006. The Audit Scotland report shows that this has actually increased from 1.78 million tonnes to 1.8 million tonnes.

29. The introduction of an environmental levy on plastic bags will assist local authorities achieve the targets set for them by the Scottish Executive.

**Reduce**

30. The introduction of a levy will reduce the number of bags in circulation, leading to a reduced number entering the waste stream and in landfill sites. It will do this by encouraging people to either reuse the bags they have paid for, to use ‘bags for life’ or to utilise alternatives to bags.

31. It has been argued that placing a levy on plastic bags will lead to an increase in demand for kitchen bin liners. It was estimated that in Ireland demand for these could increase by 77%. An Australian study stated that if an increase were to happen in Australia it would mean an extra 300 million bin liners being used each year. However that figure needs to be contrasted against an

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6 The National Waste Plan 2003, The Scottish Executive
7 Scottish Executive News Release, New Recycling Targets Set, 18 October 2004
8 Audit Scotland, Environmental and Regulatory Services Performance Indicators 2003/2004 (February 2005)
overall 5.9 billion reduction on plastic bags each year in Ireland from the introduction of a levy.\textsuperscript{9} Figures provided by a leading supermarket in Ireland show that the amount of bin liners sold increased from 2,611,920 to 5,557,200 per year. This gives an extra 3 million bin liners in circulation contrasted against a 108 million reduction in plastic bags.

\textit{Reuse}

32. When people pay the levy for a plastic bag they will be more likely to find ways to reuse it. Current second uses for plastic bags include waste bags, bin liners, lunch bags, dog fouling bags, bicycle seat covers, storage for shoes and carrying clothes. Reusing a plastic bag has a double environmental saving; it stops the bag going to landfill and saves a new one from being needed.\textsuperscript{10}

33. The environmental levy will promote the reuse of plastic bags and will encourage the purchase of bags manufactured specifically for reuse, such as ‘bags for life’.

\textit{Recycle}

34. Paying an environmental levy on plastic bags should raise consumers’ environmental awareness. The Executive’s Waste Plan states that \textit{“this plan is about the real behavioural change required to minimise the waste we generate”}.\textsuperscript{11} Whether or not consumers reuse their bags or dispose of them after a single use the publicity generated by the environmental levy will encourage people to think more about recycling other materials such as paper, glass and clothing. They may also recycle plastic bags via recycling schemes in supermarkets or run by local authorities.

35. Overall this behavioural change will substantially reduce the number of recyclable items including plastic bags entering the waste stream after a single use.

36. Recycled plastic bags are processed to return them to pellets. They undergo the process outlined in paragraph 8 above from which ‘new’ plastic bags or other plastic products can be produced.

\textit{Economic issues}

37. The effect of the Bill will be to reduce, not eradicate, the use of plastic bags. It does not prohibit their manufacture, sale or use. Plastic bags will remain available for those that want them but the difference is that consumers will be required to pay for them. This is already accepted practice in a number of stores for example Aldi, Lidl, Kwik Save, B&Q and Ikea. It is anticipated that many retail businesses will continue to provide plastic bags for those customers willing to pay the levy.

\textsuperscript{9} Plastic Shopping Bags – Analysis of Levies and Environmental Impacts, Nolan ITU Pty Ltd, December 2002
\textsuperscript{10} Film and Bag Federation, accessed at http://www.plasticbag.com/environmental/reuse.html, on 30/11/04
\textsuperscript{11} The National Waste Plan 2003, The Scottish Executive
Effects on employment

38. It should be noted that while there are a few plastic bag manufacturers based in Scotland, most plastic bags in use in Scotland and the rest of the United Kingdom are manufactured abroad. However, it is clear from the Irish experience that the Bill will impact on those who print and distribute plastic bags as well as ancillary businesses that are involved in supporting these processes. These include ink suppliers, polythene importers and haulage firms.

39. Any such businesses will want to diversify into other products or markets. There could be costs involved to businesses that do diversify in equipment and machinery. Businesses unable to diversify and utilise their existing equipment and human resource skills might see job losses. This was the case in Ireland where initial redundancies were made while the company developed new products and explored new markets. Ultimately in the Irish example the firm later expanded back to a similar level.

40. Haulage firms may be less affected if there is a change to paper based alternatives; given that supplies will still require to be delivered. This could also minimise effects on importers, printers and ink suppliers for similar reasons.

Effects on retailers

41. Retailers currently pay VAT on the plastic bags that they buy to supply to customers. Large retailers (those with a turnover exceeding £2 million who handle more than 50 tonnes of packaging per annum). are also subject to further fees falling from their obligations under waste packaging legislation (Producer Responsibility Obligations) for the plastic bags that they buy.

42. Costs for plastic bags will be reduced as demand is reduced. A further major cost reduction will be for the actual bags themselves; it costs retailers £4.50 for 1000 bags that many currently supply without charge. This area is considered in more detail in the Financial Memorandum that accompanies the Bill.

43. Evidence from Ireland showed that initially there was an increase in the theft of shopping trolleys and baskets but that after a few months this increase reduced to an almost negligible level.

Extended Impact Assessment

44. Overall the economic impact is expected to be broadly neutral. There will be economic costs and benefits from the introduction of the levy. Without further detailed consideration, beyond the resources of individual Members, it is difficult to quantify exactly what these costs might be. Any economic effects need to be considered along with social and environmental effects, covered earlier, which are likely to arise from the Bill. However, taking all social, environmental and economic aspects together, the clear expectation is an overall positive impact.

12 Information provided by JJ O’Toole Ltd, 2 June 2004
45. The Scottish Executive is finalising an independent Extended Impact Assessment on the introduction of an environmental levy on plastic bags. The aim of this being to examine a range of environmental, economic and social impacts.

**Action on plastic bag reduction in other countries**

**Ireland**

46. The Government in Ireland estimated that annually around 1.2 billion plastic bags were being provided to customers free of charge. Similarly, in Scotland and the UK, plastic bags are a very visible component of litter in the countryside and along coastlines. The Irish Government accepted that this had a detrimental effect on the environment, including wildlife habitats. To address this, the Government sought to encourage the use of reusable plastic bags and to generally change people’s attitudes towards litter and pollution in Ireland.¹³

47. An environmental levy of 15 cents on plastic bags was introduced in Ireland on 4 March 2002. The charge applies at the point of sale in shops, supermarkets, service stations and all sales outlets. Retailers must pass on the full amount of the levy as a charge to customers at the checkout. The charge for the plastic bag is itemised on all invoices, receipts or dockets issued to customers so everyone concerned is aware that a charge has been made for the plastic bags.

48. The levy applies to all plastic bags, including paper bags that have a plastic laminate coating. There are exemptions for certain types of bags. Smaller plastic bags that are used to store non-packaged goods like dairy products, fruit, vegetables or nuts and confectionery. Also exempt are smaller plastic bags that are used to store fresh meat, fish and poultry, both packaged and unpackaged, bags for life costing more than 70 cents and bags supplied to passengers in airports and ports and passengers on board commercial aircraft and ships.

49. The levy is collected centrally by the Revenue Commissioners. Revenue raised goes to the Environmental Fund used to support waste management, litter and other environmental initiatives. Retailers who fail to charge customers the levy are liable to a fine not exceeding 1,905 euros or up to 12 months imprisonment. The Government believes that the majority of retailers are complying with the levy.

50. The Revenue Commissioner’s Annual Report¹⁴ showed that from implementation to 31 December 2002, the revenue raised by the levy was 7 million euros. In 2003 13 million euros had been collected. From implementation to September 2004, a period of two and a half years, 30 million euros has been collected.

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¹⁴ Revenue Commissioners Revenue Annual Report, 2003
Australia

51. It is estimated that approximately 6.9 billion plastic bags are used by consumers in Australia each year, equating to around 36,850 tonnes of plastic. Three main areas of concern arise from this: littering, waste disposal and resource consumption.

52. In Australia, the Government has recognised the growing concerns over the environmental problems arising from the high level of plastic bags in circulation. In 2002 the Environment Protection and Heritage Council (EPHC) asked the National Packaging Covenant Council to convene a working group to investigate the issues that arise around the use of plastic bags. That group recommended that the Government should develop legislative options such as a levy on plastic bags or a ban on plastic bags altogether and that a strong code of practice be implemented.

53. In August 2003, EPHC agreed to accept a revised code of practice put forward by the Australian Retailers Association on the management of plastic bags. EPHC was clear that if the Code was not implemented and/or targets were not reached, then Ministers would look at implementing mandatory measures. In October 2003, the Australian Retailers Association Code of Practice for the Management of Plastic Retail Carry Bags was formally approved by the EPHC. The Code includes targets for recycling and reductions in bags use and aims to reduce plastic bag use by 25% by the end of 2004. There is a target of 50% reduction by the end of 2005.

54. In October 2003, the EPHC asked Government officials to begin negotiations with retailers to phase out lightweight plastic bags within 5 years. It has not yet been agreed whether or not this will be achieved through voluntary action or by legislation.

55. In February 2004 the EPHC noted that 90% of major supermarkets have signed up to the code and have cut plastic bag use by more than 200 million per annum. This represents only a 3% reduction in plastic bag use to date. In March 2004, the Premier of the New South Wales Government, which is a member of the EPHC, was reported to have stated that “if an agreement on a ban or a financial penalty on plastic bags could not be agreed by all states then New South Wales will go it alone”.

Bangladesh

56. In January 2002, a ban was placed on the manufacture and use of plastic bags in Dhaka, the capital of Bangladesh. It was estimated that in Dhaka, nine million plastic bags a day were used, 10 to 15% were disposed of in bins and 85% were discarded as litter. Serious flooding resulting in major loss of life has been linked to plastic bags blocking drains.

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15 Plastic Bags Working Group Report to the National Packaging Covenant Council, December 2002 (Australia)
16 EPHC formed by Council of Australian Governments, June 2001
17 EPHC Communique, 1 August 2003
18 EPHC Communique, 2 October 2003
19 “Carr to ban plastic shopping bags” AAP Newstrack, March 5 2004.
This document relates to the Environmental Levy on Plastic Bags (Scotland) Bill (SP Bill 43) as introduced in the Scottish Parliament on 17 June 2005

How the Bill will work

The amount of the levy

57. The Bill will place a levy on all plastic bags made wholly or in part of plastic; this includes paper bags that have a laminate coating. The amount of the levy is set at 10p, to be paid by the customer receiving the bag. Scottish Ministers are given powers to increase the amount of the levy. This will allow for increases due to inflation or future changes in environmental policies.

Exemptions

58. Exemptions are provided in the Bill for small bags used for unpackaged food for human or animal consumption. These bags must be within a prescribed size. Similarly bags for other hygienic purposes are exempt including bags for waste disposal and sealed packaging applied before goods are offered for sale.

59. To encourage the re-use of bags, reusable bags such as ‘bags for life’ are also exempt from the levy provided they are sold to the customer for at least 5 times the amount of the levy, a minimum price of 50p. Bags that are sold in rolls or sealed packs are exempt from the levy, examples of these are bags used for the disposal of waste such as bin liners and nappy disposal sacks.

60. Plastic bags used to carry goods sold on board ships, aircraft, trains or buses are also exempt. There are practical difficulties arising from enforcement and collection when bags are being issued on board a vehicle that may be moving between different local authority areas or making cross border journeys. Plastic bags supplied at airports and ports etc are however, subject to the levy.

61. Scottish Ministers are given powers in the Bill to remove any of these exemptions, reduce the prescribed dimensions of small bags or to alter the multiplier for reusable bags but not to less than 3 times the amount of the levy.

How the levy will be collected and spent

62. The customer receiving the plastic bag will pay the levy to the provider of the bag, known as the ‘supplier’. The Bill allows the supplier to charge a higher amount than the levy if they wish to do so and for them to retain any excess amount above the levy level.

63. A supplier of plastic bags is required to register with local authorities in whose area they are supplying bags. For larger organisations, such as supermarkets, this will require them to register with every local authority within whose area they operate. The supplier must submit returns to local authorities and pay the levy collected to the local authority in such a manner as the local authority determines.

64. The Bill places record keeping requirements on those who provide plastic bags. These have been kept to a minimum and all that is required is for a supplier to keep a record of the number of non-exempt plastic bags provided to customers and the amount of the levy received during each return period for a period of five years.
65. The local authority is required to collect the levy and spend the money collected after reasonable collection costs on environmental projects meeting criteria set out in guidance by Scottish Ministers.

66. The Bill allows the local authority to come to agreements with the suppliers as to the dates and frequency of remitting the levy. This could allow for remittance to be monthly, quarterly or annually. If a supplier has more than one outlet within the local authority area, the Bill allows for arrangements to determine whether or not separate returns for each outlet are required.

67. If a supplier fails to register or does not submit a return, local authorities can estimate how many plastic bags have been issued during the accounting period and issue a notice demanding payment of the estimated sum. The local authority can also estimate if a return has been submitted which they believe understates the amount.

68. The Bill requires that money raised by the levy, after the deduction of reasonable collection costs, must be spent on environmental projects.

**Enforcement**

69. The Bill requires each local authority to authorise at least one officer to have powers in respect of the levy. These powers allow the authorised officer to require anyone supplying plastic bags to produce records, books and documents relating to the plastic bags. They are also required to provide the authorised officer with assistance and information in relation to the supply of plastic bags. The authorised officer is also given, subject to legal requirements, powers to enter premises and remove and retain information relating to plastic bags for further examination. The Bill makes it an offence to obstruct an authorised officer attempting to carry out their duties in respect of the Bill.

70. To encourage compliance the Bill makes it an offence for a person or organisation supplying plastic bags not to charge the levy. In addition they will also be liable to pay a criminal penalty of £100 for every customer not charged the levy.

71. The Bill gives powers to local authorities to apply civil penalties. They can issue notices where a supplier fails to register, if records are not kept, if returns are not submitted, if they fail to comply with requirements made by authorised officers or if they fail or are late in paying the levy. The amount of the civil penalty is set at £100 for each infringement.

72. The Bill provides for appeals against the imposition of civil penalties and against estimated amounts.

**CONSULTATION**

73. Consultation on the proposal was carried out between February and May 2004, late responses submitted after the closing date were accepted. The primary purpose of the consultation was to seek views and opinions, from those with an interest in the subject area, on the detail of the proposal in order to assist with the development of the policy and the drafting of
the Bill. The purpose of consultation was not to elicit support for or against the proposal or to conduct a referendum as to whether or not there should be a levy

74. Over 120 parties responded to the consultation. Copies of the responses along with an analysis have been placed in the Scottish Parliament Information Centre (SPICe). The analysis is also available online http://www.scottish.parliament.uk/business/bills/membersBills.htm.

**Amount of the levy**

75. Consultation sought views on the amount of the levy, using the comparison with the 15 cents (10p) levy in Ireland. Most respondents agreed that it would need to be set at an appropriate amount that would be high enough to change consumer behaviour and not so high that it caused resentment by the public. Suggestions for the amount of the levy ranged from 7p for small bags to 50p for bags for life. Overall responses seemed to favour the system used in Ireland because it appeared to work. It was also suggested that the amount of the levy should be linked to the retail price index to allow for increases. The Bill allows the Scottish Ministers to increase the levy subject to Parliamentary approval.

**Exemptions**

76. Views were also sought on what bags, if any, should be exempt from the levy. Some responses indicated that there should be no exemptions for bags or businesses in order to ensure there was a ‘level playing field’. Others supported the view that bags used for hygienic purposes and for loose foods should be exempt and that exemptions should be similar to those in Ireland. The provisions in the Bill are wider than those in the Irish legislation by exempting all bags, within certain dimensions, that are used to contain un-packaged food. Exemptions are also provided for bags designed for the disposal of waste and bags that have been used to package goods and have been sealed before being offered for sale.

**Collection of the levy**

77. There were concerns that the levy would be administratively burdensome, both for business to implement and for local authorities to collect. To address this, records keeping requirements have been kept to a minimum. The Bill only requires the supplier to keep full and accurate records of the number of non-exempt plastic bags they supplied to customers throughout the period of the return for each premises or location where they provide plastic bags and the amount of the levy received during the return period. It is likely that businesses will already routinely hold the figures plastic bags for stock control purposes.

78. The Bill has also been drafted to minimise the work required by local authorities in collecting the levy. The onus is on suppliers of plastic bags to register with the local authority. Secondly, the Bill gives substantial powers to authorised officers to investigate and inspect premises and records in relation to non-payment of the levy or discrepancies in the amount paid by businesses. Finally it allows local authorities to determine payment dates, frequencies and methods that suit both the local authority and the business.
79. The Bill requires the amount collected by the local authority to be spent on environmental projects within their area. Many of the responses to consultation supported this, stating that the levy should not be seen as another tax raising initiative by local authorities.

80. Concerns were highlighted about the administrative cost of enforcing the levy. The Bill makes provision for the local authorities to deduct a reasonable sum from income to cover these costs.

ALTERNATIVE APPROACHES

81. There were four alternative approaches considered:

Voluntary approach to encourage reuse and reduction

82. While there have been numerous attempts by local authorities and several retailers to encourage the reuse of plastic bags through voluntary measures these have not been successful in materially changing consumer behaviour. Effects have been localised and of limited duration. This may be due to the initiatives not being advertised widely enough or not being rolled out in a consistent way nationally.

83. An example with the difficulties of voluntary targets can be found in Australia, where the Australian Retailers Association has a voluntary code in place for the management of plastic bags. The interim results indicate that the four main retailers have been successful in achieving 29% which is 4% over their set targets of a 25% reduction. However while supermarkets have displayed good results there is a poor take up by the non supermarket retailers (including fast food outlets) who appear to be responsible for issuing 55% of plastic bags.\(^{20}\)

Total ban on bags

84. The second alternative approach was to ban plastic bags. This option would have led to a major reduction in the number of plastic bags in circulation and a decrease in the use of non renewable resources.

85. An immediate total ban might have met greater resistance from consumers and businesses by restricting choice. While it is hoped the end result may be similar this will be achieved by consumers electing to reduce their usage, to use alternatives and also by them seeing some environmental benefits should they continue to use plastic bags.

Levy paid by the supplier

86. The third option was to introduce a levy paid by whoever supplied the bags. To do this would mean levying manufacturers, importers and wholesalers. There are at least two problems with adopting this approach. The first is that there would be no visible direct impact on customers. If there is no impact on customers there is no incentive to change their behaviour and nor is it likely that awareness on these environmental issues would be raised to any degree. This

\(^{20}\) ARA Code of Practice for the Management of Plastic Bags, Mid -2004 Interim Progress Report
would mean that the number of plastic bags in circulation would not decrease and the issues around littering would not be resolved. Customers would continue as they do now paying the same amount of attention to reuse and recycling and the same amount of plastic bags would end up in landfill sites. Inevitably costs would also be passed on to customers without giving them the same direct choice the Bill takes.

87. The second problem is difficulties around collection and enforcement of the levy. Many plastic bags are supplied to businesses in Scotland directly by suppliers who are based in other parts of the United Kingdom or abroad. Often they may also be supplying UK based businesses that operate in Scotland so, for example, they could be supplied to a supermarkets distribution centre in England and then subsequently sent by the supermarket to its stores in Scotland. The record keeping involved would be complex and detailed, overall it would be difficult to collect and enforce this method and virtually impossible to retain the levy as a local tax.

**Levy paid by the retailer**

88. The fourth approach considered was to make the retailer responsible for paying the levy for each bag provided to their customers. Again this would mean that there would be no impact on customer behaviour as outlined in paragraph 86 above.

89. There is also the likelihood that retailers would increase other costs to recoup the amount of the levy thus passing the costs on to their customers indirectly. Such an approach would not give customers choice or provide any incentive.

**EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC**

**Equal opportunities**

90. No individuals or groups are treated differently by the Bill. Each person has the same decision to make in relation to reuse and recycling or using alternatives to plastic bags.

91. It is acknowledged that the levy could affect those on a low income slightly more than it does other groups, some ethnic minority groups, disabled people, women, single parents and older people are likely to amongst those on low incomes. Depending on the choices made this may or may not necessarily be a financial impact, however it may place a greater onus on them to find other means to carry their shopping home. This could mean they are inconvenienced more than other groups, for example they are unlikely to have access to their own transport and therefore will require a suitable means to carry their purchases home.

**Human rights**

92. Section 29 of the Scotland Act 1998 sets out the limits on the legislative competence of the Scottish Parliament. One of those limits is the need not to contravene any of the rights granted by the European Convention on Human Rights (ECHR) which are listed in Schedule 1 to the

93. In particular, the civil penalties imposed in section 14 and the imposition of estimated amounts in section 15 are subject to an appeal to the sheriff by summary application and may be further appealed to the Sheriff Principal. They are therefore compliant with Article 6(1).

94. To enforce the obligations placed on suppliers under the Bill, authorised officers of the local authority have been given powers to acquire records and enter premises. These powers have to be exercised with appropriate restrictions and safeguards. Notice for the production of records is required and warrants must be obtained from the Sheriff before premises can be entered by force. Removal of records could prevent a supplier defending an action raised against him. The safeguards in place prevent that happening. We are satisfied that there are no issues either in terms of Article 6 or Article 8. Measures to remove records and enter premises are proportionate and subject to qualifications and in terms of Article 1 Protocol 1, a supplier is only deprived of his possession where such action is necessary and in the public interest.

95. The offence in section 11 is one of strict liability. The imposition of the offence is justifiable as being in the public interest given that suppliers are required to register and it is in the interest of the public that wilful disregard of the provisions should attract a penalty. The offence in section 12 will be subject to normal summary procedure. The offence in section 11 requires proof that the offence has been committed and it is subject to a defence allowing an accused to prove that all reasonable precautions were taken to avoid commission of the offence. Provision of such a defence is an indication that the presumption of strict liability is confined within reasonable limits. We are satisfied that section 11 is compliant with Article 6.

Island communities

96. The Bill will have no adverse effect on island communities. The Bill may have a positive effect by creating a reduction in pollution as the number of sea borne bags around coastlines diminishes.

Local government

97. The Bill requires local authorities to collect and enforce the levy within their area. The Bill also requires local authorities to authorise at least one officer, in writing, to be able to carry out inspections of records and premises pertaining to plastic bags.

98. The accompanying Financial Memorandum assesses the financial impact of the Bill on local authorities in detail. In general it is not expected there will be significant additional burdens or costs on local authorities. The Bill will provide an additional income stream as it provides for the retention of money collected from the levy after deducting reasonable collection costs. The requirement is that net proceeds must to be spent on environmental projects within their area to the benefit of all residents.
Sustainable development

99. Sustainable development attempts to ensure a better quality of life for everyone, now and for generations to come.\footnote{21 www.sustainable-development.gov.uk, accessed 4 March 2005} Sustainable development has four objectives and the paragraphs below demonstrate how the Bill impacts on each one.

Prudent use of natural resources

100. We are charged to ensure that we are prudent with our use of non renewable natural resources. The Bill will, through a reduction in overall consumption, ensure that less refined oil will be used to make plastic bags. It will also help raise peoples environmental awareness while encouraging reuse and recycling of plastic bags. It is hoped that this increased environmental awareness utilising reuse and recycling of all materials becomes part of everyday thinking.

Social progress that recognises the needs of everyone

101. The Bill is taking a long term perspective by tackling and changing the behaviour of customers to help safeguard our natural resources for future generations. This is achieved without taking the draconian step of a complete ban and thus allowing the exercise of choice.

Effective protection of the environment

102. Sustainable development requires action to be taken to protect things that people need or value for example landscapes and wildlife. The Bill will achieve this by reducing the incidence of one of the most visible aspects of litter found on our landscapes. In addition a further known benefit from a reduction of plastic bags in the environment will be for wildlife who suffer from ingestion of plastic bags.

Maintenance of high and stable levels of economic growth and employment

103. The Bill may have an initial negative impact on the growth and employment opportunities of a few plastic bag manufacturers and distributors located in Scotland. It is hoped that there would be opportunities for such industries to adapt to these changes by providing alternatives to plastic bags, similarly to the Irish firm who made changes to their business in light of the levy coming into force in Ireland. Furthermore, the requirement that the net proceeds of the levy be utilised on environmental projects could be used as an opportunity for numerous small enterprises to develop with local funding. At the very least the Bill will accelerate growth and employment in local environmental projects.

104. Sustainable development requires that account must be taken of costs and benefits, including those that cannot be valued in money. So any negative impact on economic growth must be considered alongside the benefits to the use of natural resources, social change and effective protection of the environment.
ENVIRONMENTAL LEVY ON PLASTIC BAGS (SCOTLAND) BILL

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