RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

AGENDA

15th Meeting, 2014 (Session 4)

Wednesday 21 May 2014

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Subordinate legislation:** The Committee will consider the following negative instrument—

   Marketing of Vegetable Plant Material Amendment (Scotland) Regulations 2014 (SSI 2014/111).

2. **Subordinate legislation:** The Committee will take evidence on the Single Use Carrier Bags Charge (Scotland) Regulations 2014 from—

   Richard Lochhead, Cabinet Secretary for Rural Affairs and the Environment, and Peter Stapleton, Policy Manager – Waste Prevention, Scottish Government.

3. **Subordinate legislation:** Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment) to move—S4M-10052—

   That the Rural Affairs, Climate Change and Environment Committee recommends that the Single Use Carrier Bags Charge (Scotland) Regulations 2014 [draft] be approved.

4. **The Scottish Government's Wild Fisheries Review:** The Committee will take evidence from—

   Andrew Thin, Chair, and Jane Hope, Panel Member, Wild Fisheries Review.
The papers for this meeting are as follows—

**Agenda item 1**

Note by the Clerk  
RACCE/S4/14/15/1

**Agenda item 2 and 3**

Note by the Clerk  
RACCE/S4/14/15/2

Note by SPICe  
RACCE/S4/14/15/3

**Agenda item 4**

Note by the Clerk  
RACCE/S4/14/15/4
Subordinate legislation cover note for SSI 2014/111

Title of Instrument: Marketing of Vegetable Plant Material Amendment (Scotland) Regulations 2014 (SSI 2014/111)

Type of Instrument: Negative

Laid Date: 25 April 2014

Circulated to Members: 16 May 2014

Meeting Date: 21 May 2014

Minister to attend the meeting: No

Drawn to the Parliament’s attention by Delegated Powers and Law Reform Committee: No

Reporting Deadline: 2 June 2014

Procedure

1. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

2. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Recommendation

3. The Committee is invited to consider any issues which it wishes to raise on this instrument.

Purpose

5. They also update references in the 1995 Regulations to provisions in the previous Directive on the marketing of vegetable propagating and planting material other than seed (Council Directive 92/33/EEC) to correspond to provisions in the codified version of that Directive (2008/72/EC) (regulations 3-5). A copy of the Explanatory Note and the Policy Note are included with the papers.

Delegated Powers and Law Reform Committee

6. At its meeting on 6 May 2014, the Delegated Powers and Law Reform Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to any of the instruments on any grounds within its remit.

EXPLANATORY NOTE


They also update references in the 1995 Regulations to provisions in the previous Directive on the marketing of vegetable propagating and planting material other than seed (Council Directive 92/33/EEC) to correspond to provisions in the codified version of that Directive (2008/72/EC) (regulations 3-5).

The 1995 Regulations apply to the list of genera and species in Annex II to the Council Directive 2008/72/EC, as it is amended from time to time (regulation 4).

Regulation 6 of these Regulations inserts a new regulation 14 of the 1995 Regulations, to make provision regarding the commission of offences by bodies corporate, Scottish partnerships and unincorporated associations.

These Regulations extend to Scotland only. A Transposition Note is incorporated within the Policy Note which is available alongside this instrument on www.legislation.gov.uk, or from the Scottish Government - Agriculture, Food and Rural Communities Directorate, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

No Business and Regulatory Impact Assessment has been prepared in respect of these Regulations as they have no impact on costs to business.

POLICY NOTE

Introduction

The above instrument was made in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972. The instrument is subject to negative resolution procedure.
Policy Objective

The purpose of this instrument is to amend the Marketing of Vegetable Plant Material Regulations 1995 (“the 1995 Regulations”) to change the botanical name for tomato to reflect revisions to the International Code of Botanical Nomenclature, implementing Article 2 of Commission Implementing Directive 2013/45/EU, which amends Council Directive 2008/72/EC.


These Regulations make use of the provisions of paragraph 1A of Schedule 2 to the European Communities Act 1972, inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by the European Union (Amendment) Act 2008, Schedule, Part 1. Those provisions allow the use of ambulatory references to EU instruments when making regulations for a purpose mentioned in section 2(2) of the European Communities Act 1972. It is considered expedient for the references in the 1995 Regulations to apply to the list of genera and species in Annex II of Council Directive 2008/72/EC, as it is amended from time to time. This will reduce the need for future domestic instruments to keep in step with amendments to that Annex. It is intended that any updates will be publicised by entries on the Scottish Government web-site.

They also amend the persons to whom the offence provisions under the 1995 Regulations apply, to make provision regarding the commission of offences by bodies corporate, Scottish partnerships and unincorporated associations.

Consultation

A statement about the change in the botanical name for tomato together with the intention to make a Statutory Instrument was placed on the Scottish Government web-site.

Timing

Member States shall bring rules implementing the provisions of Commission Implementing Directive 2013/45/EU by 31 March 2014. The change in Scotland is expected to be in force in mid-May. Regulations to implement these changes have also been made elsewhere in the UK.

Financial effects

These Regulations have no additional financial effects on business so a Business Regulatory Impact Assessment is not required.

Transposition

Plant Material Amendment (Scotland) Regulations 2014 in Scotland in relation to material other than seed. In relation to seed, implementation in Scotland has been made by the Seed (Scotland) (Miscellaneous Amendments) Regulations 2013.

<table>
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<tr>
<th>Article</th>
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<th>Transposition in Scotland</th>
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Subordinate legislation cover note for Single Use Carrier Bags Charge (Scotland) Regulations 2014 [draft]

Introduction

1. The Climate Change (Scotland) Act 2009\(^1\) gave powers to Scottish Ministers to make regulations in relation to charges for the supply of carrier bags. Following a consultation on this issue in 2012, the Scottish Government announced in June 2013 its intention to bring forward secondary legislation in the Scottish Parliament to allow businesses to introduce the charge by October 2014.

2. A first draft of the order was laid in Parliament on 12 September 2013 for a 90 day period, as set out in the 2009 Act with the Scottish Government reflecting on any comments received during the 90 day formal consultation period before laying a final affirmative order on April 3 2014.

3. At its business planning event in September 2013, the Committee agreed that it did not wish to scrutinise the first draft set of regulations laid in September 2013. The Committee agreed that should the final affirmative regulations be referred to it in 2014, that it would focus its scrutiny at that point in the process.

4. At its work programme discussion on 11 December 2013 (updated on 2 April 2014\(^2\)) the Committee agreed to seek the views of stakeholders on how the money raised from the charge would/could be allocated. Written submissions received can be found in the Annexe.

Title of Instrument: Single Use Carrier Bags Charge (Scotland) Regulations 2014 [draft]

Type of Instrument: Affirmative

Laid Date: 3 April 2014

Circulated to Members: 16 May 2014

Meeting Date: 21 May 2014

Minister to attend the meeting: Yes

Drawn to the Parliament’s attention by Subordinate Legislation Committee: No

Reporting Deadline: 28 May 2014

Purpose

5. 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

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Ministers to require suppliers of goods to charge for the supply of carrier bags of any type.

6. 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.

Procedure

7. The draft Order was laid on 3 April 2014 and referred to the Rural Affairs, Climate Change and Environment Committee. The Order is subject to affirmative procedure (Rule 10.6). It is for the Rural Affairs, Climate Change and Environment Committee to recommend to the Parliament whether the Order should be approved. The Cabinet Secretary for Rural Affairs and the Environment has, by motion Motion S4M-10052 (set out in the agenda), proposed that the Committee recommends the approval of the Order.

Delegated Powers and Law Reform Committee

8. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 22 April 2014 and agreed not to draw the instrument to the attention of the Parliament.

Action

9. The Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly, by 21 April 2014.

POLICY NOTE

The above Instrument is proposed to be made in exercise of the powers conferred by sections 88, 89, 90 and 96(2) of the Climate Change (Scotland) Act 2009 ("the Act").

The Instrument is subject to affirmative procedure by virtue of section 96(4) of the Act. It must therefore be approved by resolution of the Scottish Parliament before it can be made.

The Instrument will, if approved, be the first regulations made under section 88 of the Act. A copy of the proposed Regulations was therefore laid before the Scottish Parliament in accordance with section 97(2) of the Act.

The Scottish Ministers specified on laying a copy of the proposed Regulations, in accordance with section 97(3) and (4) of the Act, that there would be a 90 day period during which representations on the proposed Regulations might be made to them. They then publicised the proposed Regulations in accordance with section 97(5) of the Act.

The Scottish Ministers have in accordance with section 97(6) of the Act considered representations on the proposed Regulations made to them, and considered the Report on the proposed Regulations made by the Delegated Powers and Law Reform Committee of the Scottish Parliament.
The Scottish Ministers have laid a report (the “Accompanying Statement”) setting out details of the representations and of the Report, and of changes made to the proposed Regulations, all in accordance with section 97(7) of the Act.

Policy Objectives

The main policy drivers for this Instrument are the requirement to reduce litter, Scotland’s Zero Waste Plan\(^3\) and Safeguarding Scotland’s Resources\(^4\) which together set out our approach to preventing and managing waste, and using resources more efficiently. This policy is also consistent with action proposed at a European Parliament level\(^5\).

Research indicates that 750 million carrier bags a year are dispensed by supermarkets in Scotland, which equates to 11.7 bags used per person per month. If all retailers in Scotland were counted, this figure would be higher.

Although by weight they form a small proportion of Scotland’s waste stream, carrier bags can become a highly visible and damaging component of litter, either by being improperly disposed of or by being blown from bins and landfills. Zero Waste Scotland research suggests that around 7.4m bags are retrieved each year from the wider environment by Scottish local authorities\(^6\). The Marine Conservation Society’s big beach clean-up usually reports plastics bags as being a common beach litter item.

Although they are not the most common form of litter, plastic single use carrier bags in particular have a disproportionate impact on wildlife, notably in the marine environment where they can be mistaken for food and cause death after ingestion. As they are light and easily windblown they can spread widely and be difficult and expensive to remove from the wider environment.

This Instrument also supports activity under our Zero Waste Plan and Safeguarding Scotland’s Resources to change perceptions concerning resources and how they are used and discarded - to encourage re-use of goods as often as possible; maximise their economic value, and minimise their carbon impact. The carrier bag charging policy, by placing a value on a previously ‘free’ and therefore unvalued item, will encourage re-use, provide an incentive to switch to other types of shopping containers and use them as often as possible, and potentially lead more people to consider re-use of other products.

Policy Summary

The Instrument will:

- require retailers to charge at least 5p for most single use carrier bags;
- define what is meant by a single use carrier bag including the material from which such bags are made (plastic, paper and plant/starch based material);


apply the requirement to charge for single use carrier bags to all retailers, regardless of type or size;
require retailers with ten or more full time equivalent staff to keep records, and produce them to the enforcement authority on request; and
specify circumstances in which the requirement to charge does not apply.

The minimum 5p charge will encourage shoppers to bring their own bags or other containers to avoid paying the charge, and encourage higher levels of re-use of shopping containers. This will fulfil the policy objectives detailed above.

The charge will apply to all retailers and all material types (not just plastic bags) to maintain a level playing field, and prevent displacement into environmentally harmful behaviours (such as replacing plastic bags with paper).

The Instrument will specify that bags that are above a certain thickness and size and that are specifically intended for multiple reuse ('bags for life') are not covered by the charge as our policy is to encourage reuse. It is important that this type of bag is clearly defined as out of scope.

The Instrument will also specify certain small plastic and paper bags not in the scope of the charge. This is to prevent the unintended consequence of customers taking a large bag rather than a small bag if the small bag was to cost the same. This recognises that this type of small bag is better seen as packaging rather than as a carrier bag.

The charge is not a tax. Anyone can avoid the charge by reusing bags. The policy intention is that net proceeds raised by the charge will be donated by retailers to charitable good causes under a voluntary agreement currently being negotiated (rather than through regulation), including publication of records of such donations. The overall purpose of the charge is to reduce carrier bag usage rather than generate funds for good causes. Also, the power to regulate at section 88 of the Act is restricted to requiring that the proceeds be used for the advancement of environmental protection or improvement (or similar purposes) and we would not want to cut across existing relationships between retailers and other good causes. Experience from Wales and dialogue with retailers reinforces our expectation that retailers will respect the terms of such a voluntary agreement, which is currently under negotiation. We propose to keep this position under review following implementation.

**Enforcement**

The enforcing authority in any area will be the local authority responsible for that area.

The Instrument provides for criminal penalties for failure to comply with the Regulations (on summary conviction a fine not exceeding the statutory maximum of £10,000, or on conviction on indictment an unlimited fine).
In line with the Safeguarding Scotland’s Resources consultation\(^7\) (July-September 2012) (summarised below) we have made provision through section 43 of the Regulatory Reform (Scotland) Act 2014 to amend the powers in the Act so as to enable the introduction of civil penalties in respect of offences under the Instrument.

The Regulations will be amended in due course to enable local authorities to issue fixed penalty notices where there is reason to believe an offence has been committed.

The introduction of fixed penalties will provide a more proportionate enforcement option for cases where prosecution might not be appropriate.

**Consultation**

The policy proposals for the Instrument were part of the ‘Safeguarding Scotland’s Resources’ consultation. The original consultation was reopened for further comment alongside a Strategic Environmental Assessment\(^8\) (February to March 2013). 94% of respondents supported charging for carrier bags. Two campaigns were run in response to the consultation, by the Marine Conservation Society and the World Wildlife Fund Scotland, submitting a total of 594 responses in support of the principle; a further 43 standard responses agreed or partially agreed with charging and 26 disagreed\(^9\).

A copy of the proposed Regulations was open to public representation and further comment for a 90 day period (12 September - 11 December 2013), in accordance with Section 97(3) of the Act. The Instrument was published on the Scottish Government website and generally publicised through a news release and through direct contact with stakeholders, including those who had submitted responses to the consultation. 30 responses to the draft Regulations were received, with 25 expressing support for the concept of the Instrument. The Scottish Parliament Law Reform and Delegated Powers Committee also made a report on the draft Instrument. The Scottish Government has considered all further representations and responded to them in the Accompanying Statement.

The proposed Instrument was notified on 1 October 2013 to the Technical Standards Committee of the EC, as required by the Technical Standards Directive (Directive 98/34/EC). No minimum standstill period was required under the Directive as this instrument was classed as a financial measure for the purposes of the Directive. No responses were received to this notification.

**Financial Impacts**

The previously published Partial Business Regulatory Impact Assessment\(^10\) provides an in-depth analysis of financial and regulatory impacts on retailers, consumers, the carrier bag supply industry in Scotland and the Scottish Government. It demonstrates that through a reduction in litter disamenity and the hidden cost of

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\(^7\) Consultation paper: [http://www.scotland.gov.uk/Publications/2012/06/4215](http://www.scotland.gov.uk/Publications/2012/06/4215)


\(^9\) Consultation analysis: [http://www.scotland.gov.uk/Publications/2013/06/9713](http://www.scotland.gov.uk/Publications/2013/06/9713)

\(^10\) Partial BRIA: [http://www.scotland.gov.uk/Publications/2013/07/7590](http://www.scotland.gov.uk/Publications/2013/07/7590)
‘free’ carrier bags there will be an overall positive impact. A full BRIA confirming these findings is being published alongside the Instrument.

Equality Impact

This Instrument does not have a disproportionate impact on any specific sector. On this basis it was not deemed necessary to produce an Equality Assessment.

EXPLANATORY NOTE

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.

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.

Annexe

Written submissions were received from:

- Aldi;
- Asda;
- British Hospitality Association;
- The Co-operative Group;
- John Lewis Partnership;
- Bill MacDonald;
- Marks & Spencer;
- Wm Morrisons Supermarkets plc;
- J.Murdoch;
- Sainsbury’s;
- Scottish Retail Consortium; and
- David Tyson.
Written evidence from Aldi

Aldi in Scotland

Aldi opened its first Scottish store in 1994 and has just celebrated its 50th in Scotland, which opened in Inverness in March 2014. Over 1,200 people are now employed by the retailer in Scotland.

Aldi opened a total of six new stores in Scotland in 2013 and has significant expansion plans over the next twelve months. The Inverness store is the first of seven new store opening planned for 2014, alongside the expansion of several existing ones, creating over 100 jobs.

Aldi’s stores in Scotland stock some of the finest and best value locally sourced food and drink, from fresh dairy produce and baked goods, to meat, fruit and vegetables. Aldi is proud to stock more than 200 Scottish products, work with over 60 independent food and drink businesses, and boasts a product range which is at least 25% Scottish.

Carrier bags

Aldi was one of the first UK retailers to charge for plastic bags and this policy has now been in place for more than 20 years.

Three types of carrier bags are sold in our Scottish stores – a Flexi Loop Carrier Bag costing 6p, and a Vest Carrier Bag priced at 3p. These sit alongside an 89p Reusable Bag for Life.

Scottish stores do not use the same design on the 6p bags as the rest of the UK. Instead, a bespoke range of Scottish themed 6p carrier bags are used to highlight the provenance credentials of our Scottish business. As a result, Aldi’s Scottish operation does not make any profit on the sale of its plastic bags.

Aldi is a signatory to Courtauld Commitment 3, a voluntary industry initiative to reduce the environmental impact of packaging and food waste in retail operations and households.

Written evidence from Asda

Asda is Scotland’s second largest supermarket, with 59 stores and two depots. We serve more than 1.8 million customers every week and employ 20,000 colleagues.

We have been working closely with the Scottish Government and Zero Waste Scotland on the carrier bag charging regulations to find an effective and common sense approach that works for our customers and our colleagues. We have also been engaging with officials on proposals for a voluntary agreement governing the use of the proceeds of the charge.

We note the Committee’s decision to focus your considerations on how retailers intend to distribute the proceeds of the carrier bag levy.
At this stage Asda’s focus is on the operational aspects of preparing for the introduction of the charge. Our plans for how to distribute the proceeds remain under active discussion and we are not in a position to share any conclusions with the Committee at this point. We will be happy to update the Committee on our plans as soon as they are confirmed. In the meantime we can give a commitment that the funds raised in Scotland will be spent on good causes in Scotland.

As you will be aware, Asda is already required to charge for carrier bags in Wales and Northern Ireland. In Wales we donate the proceeds of the charge to local charities and good causes that benefit the communities we serve. We operate the highest standards of transparency in making these donations.

While we understand this is not within the scope of the Committee’s current discussions, Asda would like to emphasise the need for early, clear and consistent communication with the public on the introduction of the charge. Our customer insight from Wales revealed that customer awareness of the charge remained low, even after several weeks of communication. Awareness of online and food-to-go bag charging was particularly low, right up to commencement of the charge. In Scotland our understanding is that current plans are for only three weeks of official public communication from the Government, with the burden of responsibility falling primarily on retailers. There are clearly challenges posed by the purdah period, but we have serious concerns that the public communication campaign as currently planned will not be sufficient. Our colleagues, and those of other retailers, will be at the forefront of the introduction of the charge. We hope that the Government will take learnings from the Welsh experience and deliver an appropriate public communication programme to increase awareness of the introduction of the charge and avoid any unnecessary customer confusion.

Written evidence from the British Hospitality Association (BHA)

Introduction

The BHA represents the hotel, restaurant and catering industry across the UK. BHA is proud of the ongoing contribution the sector makes to the Scottish economy: the industry directly employs over 220,000 people and, indirectly, a further 120,000. Over 20,000 hospitality businesses provide 8.6 per cent of Scotland’s jobs - only London of all UK regions has more hospitality jobs per 1,000 resident population - accounting for almost £8bn in turnover and £4bn to the Scottish economy in wages and profits, or GVA.

At the BHA, we share the Scottish Government’s commitment to environmental protection, and recognise our responsibilities in encouraging all hospitality operators to address the environmental impacts of their businesses. However, we have concerns about the unintended consequences of applying a single-use carrier bag charge to the quick service restaurant (QSR) sector.

The BHA has fed into the consultations for single use carrier bags (SUCB) in Wales and Northern Ireland and understands the Scottish Government’s intention to promote re-use and tackle littering. The BHA is proposing to the Scottish
Government that it exempts the food service sector or QSR sector from the charge on the grounds of food safety, as is the case in Northern Ireland.\textsuperscript{11}

**Application of the carrier bag charge in the Quick Service Restaurant sector**

As presently drafted, the regulations include paper bags, commonly used in the food service sector, to contain partially wrapped hot and cold food for consumers eating ‘food on the go’. It is widely expected by consumers that a bag is necessary on point of sale for ‘food on the go’ as it provides crucial secondary packaging and heat protection. It also helps transport the components of the purchased meal safely in a sterile condition, and for those who consume their meal on-the-go, it provides a container in which responsibly to dispose of litter.

The food service sector, which includes our QSR members (restaurants which offer food to take-away and minimal table service), believes that an SUCB charge on the use of single use carrier bags to be completely inappropriate, and could encourage dangerous behaviours. BHA’s primary concern is food safety.

**Research**

Independent research has shown that reuse of carrier bags in the take-away sector is dangerous and could lead to serious illness. And while the single use of uncontaminated bags supplied by the retailer avoids such problems, if consumers wish to use a reusable bag there is a danger that they will risk contaminating their food with food poisoning organisms.

Research commissioned by the BHA and conducted by Professor David McDowell, Professor of Food Studies within the Biomedical Sciences Research Institute at the University of Ulster, confirms this view. Professor McDowell undertook a review of existing research into the dangers of food contamination resulting from the reuse of single use carrier bags.

A large proportion of ‘on-the-go’ food is part-packaged. Products, including sandwiches and wraps, are often served in cardboard boxes or paper wraps. In an effort to reduce packaging and improve their environmental footprint, many of our members have redesigned this packaging so that products are no longer always fully sealed shut – resulting in the possibility that they will open once placed inside a bag for transportation.

Professor McDowell concludes that “…while there are no food safety problems with such items coming into contact with the inner surface of (effectively sterile) single use bags, contact with the contaminated surface of a previously used (multiuse) bag is likely to lead to the undesirable transfer of bacteria onto the cooling “ready to eat” product.”\textsuperscript{12}

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\textsuperscript{11} The wording of the exemption contained in the Northern Irelands regulations reads: “bags used to contain hot foods or hot drinks intended for consumption away from the premises on which they are sold”: http://www.nidirect.gov.uk/single-use-carrier-bags-charge-regulations-2013.pdf

\textsuperscript{12} D. McDowell, Review of the scientific evidence on the food safety implications of the reuse of plastic bags, 2011
Furthermore, Professor McDowell is of the option that: “Multiuse bags offer considerable opportunities for highly undesirable pathogens to recycle within the latter stages of the human food chain. It would be unrealistic to suggest that the radical changes in consumer knowledge and practice required to ensure safe usage of multiuse bags could be easily or rapidly achieved. Thus, a move to reusable bags, in the absence of very significant and unprecedented changes in consumer practice, will lead to greater persistence and circulation of foodborne pathogens, and greater risks of human foodborne illness in our community.”

Professor McDowell’s review of the available evidence and his opinions are endorsed by Dr Raymond Wong, Lecturer in Environmental Health at Strathclyde University. Dr Wong has commented to BHA that: “Protection of public health is the priority, and every effort should be made to ensure food safety.” Professor Hugh Pennington has also stated in the media in recent weeks that “there are some bags you should only use once, so I would be very unhappy at having a 5p charge on bags that are being used for food”.

BHA would particularly point to paragraph 7.7 of Professor McDowell’s review that suggests that by encouraging the use of reused bags in restaurants seemingly undermines compliance with food safety management systems. Under the current European food legislation EC 852/2004, food premises should have a food safety management system in place based on the HACCP (Hazard Analysis Critical Control Points) principles. McDowell states that “…food retail processes and premises have structural and operational safeguards in place to prevent their raw materials, packaging etc from cross contaminating cooked products. However, it is not immediately clear how a retailer could prevent such cross contamination at the point of service [if a reused bag was produced by the customer].” It is BHA’s view that responsible restaurants will refuse to put their products into a customer’s reused carrier bag if produced at point of service.

The application of this charge in the QSR sector in Wales has led the Food Standards Agency in Wales to reactively issue guidance on its website, entitled: “Don’t let your carrier bag give you food poisoning.” This guidance was issued following the implementation of a carrier bag charge in Wales and advises consumers to wash resusable carrier bags or ‘bags for life’ regularly to avoid food contamination. This guidance has also been published in Northern Ireland - where the QSR sector is exempt – demonstrating that contaminated bags are a real concern not just in our sector.

In an answer to a parliamentary question tabled by Jamie McGrigor MSP, FSA Scotland’s advice to ministers confirms that there is a risk of cross contamination: “Carrier bags which have previously been used to transport unpackaged or unsealed

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13 Ibid
raw foods could present a cross-contamination risk to unpackaged ready to eat foods.\textsuperscript{17}

The request to exempt the QSR sector from the charge is based on concerns supported by leading UK academics, and seemingly the Food Standards Agency, and should be taken seriously by the Scottish Government. It is the BHA’s view that the Scottish Government is unwittingly placing public health at risk by applying the charge to bags in the QSR sector.

If the Scottish Government accepts that there is a food safety risk it should grant an exemption based on the consultation criteria which first proposed the SUCB charge. The Scottish Government’s Safeguarding Scotland’s Resources consultation document states that an exemption of certain carrier bags would be considered “where consumers have to use a bag, and a reusable one would not be appropriate”.

BHA recognises that Scottish Government wishes to tackle litter, and leading members of the sector currently deploy significant measures to reduce littering and are in dialogue with Scottish Government on its broader litter strategy. However, it is the BHA’s view that the drive to tackle litter should not take priority over the safety of the Scottish public. It is likely that an SUCB charge will have limited influence in relation to litter within independent sector which makes up the majority of take-aways.

A full copy of Professor McDowell’s review [and original letter to the RACCE Convener on 15 October 2013] is enclosed with this submission [at Appendix].

**BHA Appendix 1**

**Letter from William Macleod, Executive Director – Scotland, BHA**

I am writing to alert you to some concerns the British Hospitality Association (BHA) has in relation to the Scottish Government’s draft regulations for a charge on single use carrier bags (SUCB).

The BHA represents the hotel, restaurant and catering industry across the UK. BHA is proud of the ongoing contribution the sector makes to the Scottish economy: the industry directly employs over 220,000 people and, indirectly, a further 120,000. Over 20,000 hospitality businesses provide 8.6 per cent of Scotland’s jobs - only London of all UK regions has more hospitality jobs per 1,000 resident population - accounting for almost £8bn in turnover and £4bn to the Scottish economy in wages and profits.

The BHA has fed into the consultations for single use carrier bags in Wales and Northern Ireland and understands the Scottish Government’s intention to promote reuse and tackle littering. The BHA is proposing to the Scottish Government that it exempts the food service sector from the charge, as is the case in Northern Ireland. The food service sector, which includes many of our Quick Service Restaurant (QSR - restaurants which offer minimal table service) members, believes that an SUCB

\textsuperscript{17} Scottish Parliament, Written Answer, S4W-18037
charge on the use of single use carrier bags to be completely inappropriate, and could encourage dangerous behaviours. BHA’s primary concern is food safety.

Independent research has shown that reuse of bags in the take-away sector is dangerous and could lead to serious illness. And while the single use of uncontaminated bags supplied by the retailer avoids such problems, if consumers bring their own reusable bags there is a danger that they will risk contaminating their food with food poisoning organisms.

To inform this view, the BHA commissioned Professor David McDowell, Professor of Food Studies within the Biomedical Sciences Research Institute at the University of Ulster, to undertake a review of existing research into the dangers of food contamination resulting from the reuse of single use carrier bags. The findings of this research support BHA’s concerns about the threat of contamination, and are enclosed in full with this letter.

The QSR sector in Wales has also experienced confusion amongst consumers as to why a bag is being charged for when they are purchasing food to be eaten on the go as well as encountering cases where consumers seek to avoid the charge using loopholes.

I understand that the RACCE Committee will not be reviewing the draft regulations at the current time. However, I felt it important to raise this important concern with you directly if the committee is to review final regulations in the New Year. If the Committee would value any further information on this issue, please don’t hesitate to ask. I would also be happy to arrange a briefing for you and the rest of the Committee at an appropriate time if you felt necessary.

BHA Appendix 2

Review of the scientific evidence on the food safety implications of the reuse of plastic bags by Professor D A McDowell

Summary

This report presents and assesses the background, challenges and available scientific evidence in relation to food safety of reusable plastic bags. It highlights and discusses some of the undesirable implications of such reuse, including increased persistence and recycling of foodborne pathogens within the latter elements of the human food chain. It indicated the likelihood of increases in human illness by increased contact with, and consumption of, such pathogens. It presents a number of scenarios where the reuse of contaminated multiuse bags may pose threats to the public health. It derives an opinion on the inadvisability of the wider use of multiuse plastic bags in purchasing, transporting and storing higher risk/ready to eat food items, and concludes that, in the absence of radical changes in consumer knowledge and practice, the reuse of multiuse bags is likely to increase the risk of human infection with undesirable food related pathogens.
Background

Foodborne disease imposes a significant burden on the UK population. Every year, approximately 1M people suffer from food poisoning, 2000 individuals are hospitalised and 500+ individuals die, as a result of foodborne illness (Redmond and Griffith 2006). Although significant, these figures are probably underestimations, as many incidents are not recorded and reported (Day 2001; Milton and Mullan 2010). As well as these clinical and societal pressures, foodborne illness entails considerable commercial costs such as loss of sales and significant damage to brand image. The annual overall cost of such illness has been recently estimated at around £1.5 billion (FSA 2010).

The scale and severity of the clinical and commercial implications of the consumption of contaminated or re-contaminated foods mean that considerable industrial and public health resources are engaged in excluding the agents of foodborne illness at each and every stage of the food production, processing and service chain. However, cross-contamination remains one of the most important routes by which the bacterial agents of human foodborne illness persist along the human food chain, and (ultimately) into consumers (Moretro and Langsrud 2011). Moreover, a number of recent reviews have confirmed that a worrying large proportion of consumers do not currently practice adequate food safety (Milton and Mullan 2010; Wright, Canham et al. 2011). Thus there is considerable evidence that consumer do not adequately apply the FSA’s “4 Cs” strategy (FSA 2006) for correct food hygiene (effective Cleaning, Cooking, Cooling and prevention of Cross contamination), especially in less controlled circumstances involving consumer consumption of “ready to eat” or “take away” foods on the move or at home.

Particular concerns remain in relation to (in)effective decontamination of domestic food contact surfaces and equipment (Medeiros, Hillers et al. 2001; Medeiros, Hillers et al. 2001; Medeiros, Kendall et al. 2001; Milton and Mullan 2010), especially as domestic food processing is not protected by the food safety legislation and inspection systems which apply across the rest of the human food production, processing and service chain (Nauta, Fischer et al. 2008).

Review of wider evidence on the risks posed by cross contamination in the food chain

Numerous studies have demonstrated the considerable abilities of significant foodborne pathogens such as Salmonella, Verocytotoxigenic E. coli (VTEC), Listeria, and Campylobacter to penetrate domestic food handling and preparation environments and to persist for extended periods on a wide range of food contact surfaces (Chen, Jackson et al. 2001; Cogan, Slader et al. 2002; Haysom and Sharp 2005; Moore, Blair et al. 2007). In recent times it has become clear that such persistence is enhanced by the ability of bacteria to produce biofilms which protect them from desiccation, and sanitizing agents (Joshua, Guthrie-Irons et al. 2006; Kalmokoff, Lanthier et al. 2006; Kramer, Schwebke et al. 2006; Jain, Gupta et al. 2007; Perez-Rodriguez, Valero et al. 2008; Renier, Hebraud et al. 2011; Siringan, Connerton et al. 2011).

The vast majority of studies on cross contamination in the food chain have focussed on industrial scale processes, and therefore much of the available information about
cross-contamination with foodborne pathogens has investigated large scale/industry relevant food contact surfaces, i.e. stainless steel, cement, wood and hard plastic surfaces (conveyor belts/chopping boards)(Cliver 2006; DeVere and Purchase 2007; Oliveira, Oliveira et al. 2007; Keskinen, Todd et al. 2008; Perez-Rodriguez, Valero et al. 2008; Silva, Teixeira et al. 2008; Gunther and Chen 2009; Todd, Greig et al. 2009; Iibuchi, Hara-Kudo et al. 2010).

There is relatively little information on consumer aspects of food handling inside and outside the home (Kennedy, Gibney et al. 2011; Kennedy, Nolan et al. 2011), and even less on the risks of cross-contamination during consumer reuse of plastic bags. The available specific evidence on consumer reuse of plastic bags is discussed below. However, it is also reasonable to comment on the likely nature and implications of the reuse of plastic bags, from the considerable knowledge base of the risks and outcomes of the contamination and recontamination of food with undesirable pathogens from contaminated surfaces, at other stages of the food production, processing and service chain.

There is no evidence to suggest that the risks of the transfer of foodborne pathogens from contaminated plastic bags are any less than the risks of cross contamination of food items under any other circumstances under which food items come into contact with contaminated surfaces. Given the greater complexity and diversity of the activities which occur in domestic kitchens versus commercial kitchens, the absence of surveillance, and the skills levels of consumers, it is likely that the risks of cross contamination in domestic food handling operations are considerably higher. Such general conclusions are supported by a recent international report (EFSA 2007) which identified private households as the most common setting of exposure (37%) for verified outbreaks of foodborne disease.

Review of specific evidence on cross contamination by reusable shopping bags

Despite the widespread use of reusable bags in the purchase, transport and storage of a diverse range of food materials, there has been very little scientific investigation of the food safety implication of their use. However, some evidence has recently become available in what is a relatively new area of study. A comprehensive search of a number of appropriate online scientific databases (Web of Knowledge, PubMed, and MedLine) identified two studies (Summerbell, 2009 and Gerba et al., 2010) which have focussed directly on the potential for cross-contamination of food products by reusable shopping bags.

In 2009, a study funded by the Environmental and Plastics Industry Council, entitled Grocery Carry Bag Sanitation (Summerbell 2009) was carried out by three Canadian independent testing laboratories (Guelph Chemical Laboratories, Bodycote Testing Group of Montreal, and Sporometrics (Toronto). This group obtained 25 used reusable bags from shoppers in downtown Toronto, by offering a “new for old” swap, and gathered information from consumers on the age, frequency of use and types of use of the recovered bags. Control bags (4) were purchased new in the same locations. Recovered bags were examined (in some cases by different methods in the participating laboratories) to estimate numbers or presence/absence of an appropriate range of bacteria “total plate count, total coliforms, E. coli, Salmonella, mold, and yeast”.

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In this study the participant laboratories used a range of analytical methods, making it difficult to draw firm conclusions, although it is clear that that study did recovered some bacteria, yeast and molds from some of the examined used shopping bags, and presents reasonable conclusions and recommendations around the risks of reusing grocery bags.

The other study to specifically examine the potential for cross examination of food products by reusable shopping bags (Gerba, Williams et al. 2010) is, in my view, a more substantial, comprehensive and credible document. This study, funded by the American Chemistry Council examined a total of 84 shopping bags collected in San Francisco, Los Angeles and Tucson. This study adequately described and applied well-recognised standard microbiological techniques to determine TVC’s, coliform and \textit{E. coli} numbers (by the most probable number (MPN) method), and the presence/absence of \textit{Salmonella} and \textit{Listeria} where appropriate enrichment methods. This study assessed:

- The extent of \textit{Salmonella} growth in stored bags by “spiking” - a well-recognised procedure in which in a known concentration of \textit{Salmonella} was inoculated onto samples of grocery bag fabric, in microbiological media or meat juice, and stored under ambient conditions, to determine survival/growth under model conditions.

- The effect of washing reusable bags in water or bleach on “spiked” bacterial numbers.

- The frequency, nature of alternative use, and cleaning of bags.

The results of this study are clearly presented and effectively analysed, in the production of clear and valid conclusions and recommendations which may be summarised as follows.

No bacteria were recovered from “new” reusable (i.e. not yet used) bags, but significant numbers of bacteria were frequently recovered from reusable bags collected from consumers.

A number of coliform species, some of which are indicative of faecal contamination (widely recognised as an important signal of the likely presence of foodborne pathogens) were recovered from used bags.

The study did not detect either of the target pathogens, probably due to the relatively low incidence of these organisms within the food chain, and the relatively small number of bags examined.

There is some evidence that bacteria inoculated in meat juices increased during the 2h model “transport” period, suggesting increased risks of the development of infective doses during the longer term storage and reuse of contaminated reusable bags.

Machine or hand washing was shown to be capable of reducing bacterial numbers to very low (undetectable) levels. This finding is encouraging, but the potential hygienic
impact of such processing is in reality limited, as the study also observed that only 3% of the consumers questioned ever washed their bags.

Implications from the available evidence

This review of scientific evidence has identified credible evidence indicating a potentially significant risk of bacterial cross contamination in relation to the use of reusable bags to carry food items. It confirms the capacity of foodborne pathogens to gain access to and persist on reused plastic bags, and to [re]contaminate high risk and ready to eat food items transported in reused bags. Most of the available information relates to the risks posed by reusable plastic carrier bags, as these are most widely used. However, the identified risks apply equally to all forms of reusable bags, including paper or cloth bags. Irrespective of the specific nature of such bags, the evidence clearly indicates that the reuse of contaminated bags is likely to increase the risks and the incidence of human food related disease.

Undesirable scenarios

Leaving aside the general individual and public safety aspects associated with greater recirculation of plastic bags, such as spillages/food loss/damage from worn or inappropriate consumer supplied bags, and the risks of suffocation associated with transporting empty plastic bags near small children, there are a number of likely circumstances which the use of contaminated multiuse bags is clearly undesirable in relation to food safety.

Contamination during initial use

As noted above, significant food related pathogens can contaminate and persist in plastic bags. The rapid disposal of such bags, after single use, helps to reduce the risks associated with the undesirable contamination gained by contact with poorly packaged meat (leakers), contaminated retail packaging and loose sold vegetables (with adherent soil/manure etc).

Failure to decontaminate or hygienically discard contaminated bags

Failure to decontaminate used bags, and/or storage under conditions which allow pathogens to persist, means that contaminated bags can further contaminate subsequently purchased foods and food packaging. Such contamination may grow within food debris, soil, water, freezer drip etc, (all of which can build up in reused bags) during storage at kitchen temperatures. These circumstances increase the potential for the establishment of a cycle of contamination, persistence, and re-cycling bacteria within the food shopping, storage and preparation process.

Sequential food/non food use of multiuse bags

The well recognised practice of reusing plastic bags across a range of diverse non food transportation and storage activities also present significant opportunities for a wide range of bacteria, including those capable of causing food borne illness, to gain access to the domestic food purchasing/ storage/preparation process. Sports kits, soiled clothes, nappies, flowers, etc., etc. all carry undesirable organisms which,
although not posing significant risks to human health if properly handled, should not be allowed to transfer to foodstuffs by mixed reuse of plastic bags.

Contamination of high risk (ready to eat/take away) foods

Most retail foods arrive in the domestic environment packaged, or they will be subject to a final (bacterial kill) cooking process before consumption. As long as contaminated packaging is carefully removed and discarded, and/or raw contaminated foods are cooked – the risks associated with bringing contaminated foods/packaging into the domestic environment are significantly reduced. However, the transportation of ready to eat (e.g. “take away”) foods in contaminated reused plastic bags is highly undesirable, as it provides bacteria with a means of evading the very important final (bacterial kill) protection provided by domestic cooking.

Take away foods

Take away foods are usually not presented in contamination proof containers. For example burger or sandwich packs are not sealed, to allow hot food to “breathe”. While there are no food safety problems with such items coming into contact with the inner surface of (effectively sterile) single use plastic bags, contact with the contaminated surface of a previously used (multiuse) bag is likely to lead to the undesirable transfer of bacteria onto the cooling “ready to eat” product.

Eating on the move

Similarly, the well established consumer practice of directly eating “take away” foods by hand “from the bag” - when that bag is contaminated, especially when consumer’s hands are very unlikely to be washed - will transfer contamination onto the fingers, onto the handled foods, and into the consumer mouth.

Wider recontamination and pathogen dissemination at retail level

Customers bringing their own contaminated multiuse bags into a retail environment run the risk of transferring “their” bacteria onto the hands of retail staff, and other retail food contact surfaces as the customer or server places purchased food into the contaminated bags. Food retail processes and premises have structural and operational safeguards in place to prevent their raw materials, packaging etc from cross contaminating cooked products. However, it is not immediately clear how a retailer could prevent such cross contamination at the point of service. It should also be borne in mind that such contamination, once established at the point of service, is likely to be serially transferred to food items served to subsequent customers.

Opinion

In my professional opinion, the combination of the available evidence on the potential for the persistence /transfer of foodborne pathogens in contaminated multiuse plastic bags, and my wider knowledge of current consumer food safety knowledge and practice, raises concerns regarding the wide use of consumer provided multiuse plastic bags in the receipt, transportation and storage of food. The use of disposable plastic bags limits the opportunities for food contamination during retail and domestic activities. Multiuse bags offer considerable opportunities for
highly undesirable pathogens to recycle within the latter stages of the human food chain. It would be unrealistic to suggest that the radical changes in consumer knowledge and practice required to ensure safe usage of multiuse bags could be easily or rapidly achieved. Thus, a move to reusable bags, in the absence of very significant and unprecedented changes in consumer practice, will lead to greater persistence and circulation of foodborne pathogens, and greater risks of human foodborne illness in our community.

Conclusions

Despite the wide use of plastic bags in the receipt and transport of purchased food items, relatively little direct scientific evidence is available. However, to bacteria, plastic bags are just another mobile surface from which they may progress into places in which they can multiply, i.e. within animal or human hosts. Our best defence is therefore to continue to interrupt this trajectory. Over many years we have developed many effective and innovative ways of preventing such progress, although the current undesirable frequency of human infections associated with the consumption of contaminated food is a clear signal of the scale and extent to which food borne pathogens do persist within and transfer along the human food chain.

The use of single use (uncontaminated) plastic bags helps interrupt such transfer by limiting cross contamination and recontamination. Increased use of contaminated multiuse bags is likely to facilitate the persistence and spread of undesirable pathogens within food purchasing, storage and consumption. Increased [re]cycling of these pathogens in such circumstances constitutes an increased risk to the public health in terms of increases in the incidence and impact of human foodborne illness, especially where food intended to be consumed without any further “bacterial kill” steps, for example in “ready to eat” and “takeaway” situations.

References


Written evidence from The Co-operative Group

The Co-operative Group (TCG) is the UK’s largest mutual business, owned by nearly eight million members. It is one of the UK’s biggest food retailers, operating across the country with almost 2,800 stores, of which 400 are located in Scotland. Predominantly focusing on the convenience and supermarket sector, the key aim of this business is to create a strengthened co-operative retail offer that will generate sustainable profits and provide improved services to members and customers. It also operates the third largest pharmacy business in the UK with 50 outlets in Scotland.
The Co-operative Group shares the aspirations of the Scottish Government to reduce the numbers of single use carrier bags distributed. Its progress in this area has led the market. It has reduced the numbers of single use bags it distributes by 63% since 2006 without the necessity of charging, and has a target to make further reductions.

One example of The Co-operative Group’s continued commitment to meeting its responsibilities in reducing the environmental impact of its operations is its work in partnership with Scottish local authorities to offer environmentally-friendly choice to consumers. The Co-operative Food sells compostable carrier bags, certified to EN 13432 and the new AFOR home composting standard, at 6p each. These are used initially to carry shopping home but then are reused for local authority food waste collection and home composting. The Co-operative Group sells these bags only where the local authority accepts them for food waste collection – currently 108 stores across 13 local authorities in Scotland. Their use not only reduces contamination of collected food waste but also helps local authorities drive resident engagement in areas of food waste collection. This has been described as “a great example of social and environmental responsibility as a food retailer that assists its customers in conveniently recycling inevitable food waste” by the Waste Awareness Co-ordinator of Perth and Kinross Council.

The Co-operative Group has not yet fully finalised its plans for distributing net proceeds of the Single Use Carrier Bags Charge (Scotland) Regulations. It is able to outline how it distributed proceeds from the Welsh Carrier Bag Charge which came into effect in October 2011.

The Welsh Carrier Bag Charge Regulations requested that businesses distribute the net proceeds of the charge to environmental good causes. The Co-operative Group complied with this request. Due to The Co-operative Group’s mutually-owned structure its 600,000 members in Wales were able to decide how to distribute proceeds to environmental projects in their local communities. This was followed up in April 2013 with the launch of a major new project called “Welsh Wildlife Heroes” in partnership with Wildlife Trusts Wales. Welsh Wildlife Heroes saw The Co-operative Group pledge £750,000 over three years (2013-2016) to support a number of local landmark projects designed to create new habitats, protect species and deliver biodiversity targets.

The Scottish Carrier Bag Charge Regulations have a different aim: to reduce litter and deliver the Zero Waste Plan. Whilst The Co-operative Group is not yet in a position where it can announce its plans for distributing proceeds of the Scottish charge it is able to say that it has discussed those plans with Resource Efficient Scotland. Resource Efficient Scotland is happy that, to date, the proposals discussed align with the aims of the Scottish Government. The Co-operative Group is committed to continuing this dialogue with Retail Efficient Scotland and will continue to actively seek their input as it finalises its plans.
Written evidence from John Lewis Partnership

Proceeds from Bag Charging

John Lewis Partnership supports charging for all single use carrier bags in Scotland, provided it is irrespective of the material or size/type of retailer. This will ensure consumers receive a consistent message.

The Partnership plans to donate the full proceeds from bag sales in Scotland, excluding VAT, to good causes. We will not deduct any administration costs.

The Partnership would like any guidance on the causes that can be supported with the proceeds from bag charging to be as open as possible. We want to ensure our shops can take local decisions and support local causes. For example we would want our Waitrose shops to be able to donate the proceeds directly back to local communities through our existing Community Matters scheme. This will enable us to support local and smaller charities and a wide range of causes. We would, naturally, look for a proportion of the proceeds to go to environmental charities, making a key link for customers between the bag charge, resource saving and support for environmental causes.

Reporting on Bag Charging

We would support a similar system to Wales whereby retailers are encouraged to report total sales and profit on an annual basis.

We also wish to put on record that we support the Carrier Bag Voluntary Agreement (still in draft form) and have been involved in its development with the Scottish Retail Consortium.

Written evidence from Bill MacDonald

I write this in response to some of the quite ridiculous and downright misleading information contained within the accompanying statement to the draft proposal to introduce a charge for carrier bags. I also attach for your attention a copy of my submission to the Delegated Powers and Law Reform Committee.

Nowhere in the Accompanying Statement is there any mention whatsoever as to the efforts achieved during the period of the voluntary agreement in Scotland whereby a reduction of some 50% of check-out carrier bags were issued and, although this figure saw a slight increase of less than 5% in the numbers issued in the period since the voluntary agreement ended, that increase has been counteracted by advances in plastic carrier bag technology that has seen quantities of virgin plastic film required to manufacture check-out carrier bags reduced, thereby equating to a net reduction figure of approximately 60% due to the decrease in virgin plastic film being used. All this was achieved without the need to introduce a charge compared to the published figure of a 76% reduction in Wales were a charge was introduced. Although recent figures suggest that the initial reduction figure of 76% in Wales is now settled nearer to 50%. Nor has there been any concentrated effort made by Zero Waste Scotland to ascertain the numbers or tonnage of check-out carrier bags returned by consumers for recycling during the period of the voluntary agreement in
Scotland.

The message is there in black and white, Scotland does not need to introduce a legislative charge to reduce the number of carrier bags issued or plastic film usage.

A direct result of the decrease in check-out carrier bag usage has seen consumers making purchases of other bags such as bin liners, refuse bags and sandwich bags. That plain fact is borne out by figures from Eire where, although a supposed 90% reduction in plastic carrier bag usage was achieved, the total use of plastic film usage increased from approximately 19,000 tonnes to 29,000 tonnes per annum.

It should also be of interest to committee members the written response received from Cabinet Secretary, Richard Lochhead, who, when asked to define a "single use plastic carrier bag", when independent figures from WRAP indicated that approximately 74% were in fact re-used at least once. He agreed by stating: **"we agree with you that the term "single use" carrier bags should not be used".** (Ref: 2008/0047279OR. Environmental Quality Directorate/Waste and Pollution Reduction Division. 6th January 2009). Why then does the Minister continue to use this term when making reference to plastic carrier bags?.

It's patently obvious that the Minister has not taken on board the information, printed on plastic check-out bags issued at Morrisons supermarkets, which state: "Re-using bags helps protect the environment. That's why we've made this one strong enough for you to use again. Please do".

Interestingly, it is also noted that, in bold print, at the head of the draft proposal it says "ENVIRONMENTAL PROTECTION". This is extremely confusing when three members of the Scottish Government's Zero Waste policy team, including top turnip Stephen Pathirana, who was at pains to inform a delegation from the Carrier Bag Consortium (CBC), at a meeting held on Scottish Government premises on 24th November 2012, on no less than three occasions, that the proposal to charge for plastic carrier bags had, and I quote: "nothing to do with the environment". That would now appear to be totally misleading since, from the CBC stance at that time, as is now, that any charge would have a prolific and detrimental effect on the environment such as increased weights of the alternatives that in turn lead to increased requirements in transport, fuel, energy, pollution, not forgetting of course the additional landfill requirements since the vast majority of the alternatives cannot be recycled.

The statement also refers to the Marine Conservation Society (MCS) reporting that plastic bags are a common beach litter item. This is yet another misleading statement. The MCS report from 2012 ([http://www.mcsuk.org/downloads/pollution/beachwatch/latest2012/Beachwatch_Summary_Report%202012.pdf](http://www.mcsuk.org/downloads/pollution/beachwatch/latest2012/Beachwatch_Summary_Report%202012.pdf)) makes no specific reference to plastic carrier bags whilst other reports refer to "plastic pieces" which are normally put into two categories of size and not specifically plastic carrier bags.

When you then look at the list of the top 20 items found in the annual Beachwatch survey, you find that plastic bags were are actually the 15th most numerous item on the list accounting for only 2.2% of total litter. More numerous by far, at No1 on the list, were pieces of miscellaneous plastic ranging from 1-50 centimetres accounting
for 14.4% of total litter, (plastic pieces below 1cm in length was No2 at 6.5%), (crisp, sweet and lolly wrappers was No5 at 5.4%, (fishing net was No 9 at 4.4%) plastic drinks bottles at No11 was 3.4%), anglers' fishing line was No 14 at 2.4%), Oh and then come plastic bags (importantly not specific to carrier bags), at No 15.

A quote from the zero waste Litter Research Report states that "much recent work has focused on the environmental impacts of micro plastics – tiny plastic particles in the sea which can be ingested by wildlife" with no mention specifically of plastic carrier bags.

The accompanying statement also refers to plastic single use carrier bags being the cause of death in the marine environment. This is pure unadulterated nonsense and yet another classic example of inaccurate innuendo and misleading information being spouted. There is no study yet published that makes reference to a plastic single use carrier bag as being the "actual cause of death" in the marine environment or to any form of wildlife. In fact, one of Greenpeace's top scientists claims that the plastic bag issue has been distorted by confusion and hysteria. "It's very unlikely that many animals are killed by plastic bags," said Greenpeace's marine biologist David Santillo. "The evidence shows just the opposite. We are not going to solve the problem of waste by focusing on plastic bags."

Also appearing to be deliberately overlooked for inclusion in the accompanying statement are some factual information from a BBC News, Northern Ireland, item that appeared on-line in October 2011. (http://www.bbc.co.uk/news/uk-northern-ireland-15289821)

Not to be seen anywhere in the statement are the facts contained in a Freedom of Information request, dated 21st September 2012, that Falkirk Council hand out, five million "plastic doggy bags" free of charge annually, (ref: 3084702, Francis Cianni, Area Estates Co-Ordinator), that equates to around 68% of the 7.4 million bags that Zero Waste Scotland "research" state are retrieved from the wider environment by Scottish local authorities all thirty two of whom have seen a dramatic increase in the number of complaints relating to dog fouling since the campaign began to eradicate plastic carrier bags.

As an instance, dog fouling complaint figures supplied by Moray District Council, the constituency served by Cabinet Secretary, Richard Lochhead, show that from a base figure of 92 dog fouling complaints made to Moray Council in 2005, they rose by an average of 81% annually up to and including 2011.

Note: (figures relating to dog fouling complaints and fixed penalty notices issued for all Scotland Councils since January 2005 to August 2012 have been supplied under Freedom of Information requests and can be provided if so required).

Why, it has to be questioned, has Zero Waste Scotland choosen to ignore the facts contained in several reports, the most recent carried out by the Environment Agency Ref: SC030148 on behalf of the UK Government, where in-depth scientific research has shown the check-out carrier bag to have the least damaging impact of any carrier bag presently on the market. For Zero Waste Scotland to suggest otherwise is based entirely on their own stated assumptions or accompanied provisos and is totally at loggerheads with the information provided by DEFRA.
It is also worth noting the quote from Patrick Harvie MSP on the 24th June 2009 when debating in parliament the Group 25, Amendment 2, to the Climate Change (Scotland) Bill, where his opening contribution to the morning session, albeit a Group 1 amendment, was to indicate that, and I quote: "our approach to climate change must be science led" yet it now appears that the same Patrick Harvie now chooses to conveniently forget his utterings since he now continues to dismiss the findings of all "science led" reports with regard to plastic carrier bags and their alternatives. Nowhere in the statement is there any reference made to the above debate where Patrick Harvie MSP, said, and again I quote: "There are some good arguments about the environmental impacts of different types of bag; some completely spurious arguments have also been advanced, such as the idea that reusing bags will become some sort of public health menace because of their not being hygienic". (http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=4878&mode=html)

The refusal by Patrick Harvie to accept that there is serious health issue implications relating to bacteria such as E.coli, Salmonella and Shigella were highlighted by Dr Chuck Gerba, professor of microbiology at the University of Arizona and John Oxford, professor of virology at the University of London published in the November 17th 2012 BBC magazine. (www.bbc.co.uk/news/magazine-20324304) where the article includes the following: "Shopping trolleys are really bad," warns Gerba, "what's more, about half of reusable shopping bags have faecal bacteria in them" adding "Some people have more faecal bacteria in their grocery bag than in their underwear, because they at least wash that" before going on to conclude "All of us, in all these countries we have gone to, rely on Lady Luck too much, keeping our fingers crossed or sitting on our hands. In a modern scientific society, what we want is people to realise there's a problem here and take action." Or, for that matter the more detailed health risk information contained in a survey published as recently as August 2012 in the State of California where it states: In San Francisco, the first major city to pass a plastic bag ban, emergency rooms have seen a spike in E. coli infections and a 46 percent increase in deaths from foodborne illness in the three months after the bag ban that went into effect in 2007, according to a study by professors at the University of Pennsylvania and George Mason University.

Hardly a week goes by nowadays without reading about the potential health risks associated with re-useable carrier bags. In fact it was only in June of this year, 2013, that our very own Food Standards Agency (FSA) issued several warnings to consumers about the dangers of food contamination and food poisoning from re-used bags.

Now, who's words would you stake your life on regarding bacteria related health warnings, would you rather take on board and pay attention to the words of Patrick Harvie MSP, or would the Scottish public be safer if the committee were to listen to the warnings issued from a professor of microbiology, a professor of virology, further warnings from other eminent professors in the field of bacteriology and those of the Food Standards Agency?.

Staying with the above parliamentary debate to highlight another misleading statement, I refer to Stewart Stevenson MSP, then Minister for Transport, Infrastructure and Climate Change, who, when also debating the Group 25, Amendment 2, said, and I quote: "We are addressing the issue of carrier bags in
general, not merely plastic bags. We rely on independent research from AEA Technology, which shows that a measure such as the one that we are proposing would save 5,000 tonnes of waste a year."

To make such a statement was not only inaccurate and misleading it was factually incorrect.

The fact of the matter is that AEA Technology were challenged as to the waste savings figure of 5,000 tonnes as being erroneous and which had been arrived at using the specifications of a particular type of bag "not used anywhere in Europe". It was, as a result of this challenge, that the correct figure of 4,500 tonnes increase in waste was added on to the end of the report as a correction by way of an addendum to which Stewart Stevenson conveniently overlooked in his deliverance. This corrected figure was agreed with Simon Stockwell, who at that time was leading the Waste Strategy Team in the Environment and Rural Affairs Department at the Scottish Executive, and Neil Young, Scottish Delegate to the Carrier Bag Consortium. In turn this correction was then included, as an addendum, in the report that was duly presented to the former Environmental and Rural Development Committee (ERDC).

Importantly, the issue of air pollution and in particular harmful carcinogenic emissions, have also been overlooked in the accompanying statement. The Scottish Government recently reported that their ambition in meeting the Emission Reduction Targets set by themselves had failed dramatically, yet, this proposal will not only lead to an increase in lorries on our roads, it will result in further increasing those harmful emissions and landfill requirements to cope with all the bulkier alternative products which cannot yet be recycled.

Along with many other "indirect consequences" these are exactly the same as those considered by the former ERDC when it discussed the introduction of a "levy", (similar to a charge if I may say so), and of which the current convener of the RACCE committee, Rob Gibson MSP, was a sitting member of that cross party committee who unanimously rejected the introduction of a levy for plastic carrier bags, and in conclusion said in it's report to parliament that: "There a clearly a number of unintended consequences that appear likely to be connected with achieving a large reduction in plastic bag use by means of the proposed levy. The net environmental impact of the proposed levy is an issue of considerable dispute in a range of areas".

The accompanying statement also, and quite conveniently, chooses to omit altogether any reference to the VAT issue along with the many important factors relating to the rights of the consumer under the terms of the Sale of Goods Act 1994 and the Unfair Terms in Consumer Contract Terms Directive, EU 93/13/EEC, all of which have an impact on those consumers and retailers affected by the proposed charge, details of which are included in my additional submission.

Finally, if I may put forward the following suggestion for a more simplified and easy solution that could achieve the aims of the draft proposal laid before you:

In tandem with other measures to cut down on plastic bag usage/waste, no one, including Zero Waste Scotland, has even considered continuing the overwhelming
success of the voluntary agreement carried out with the cooperation of the larger retailers in Scotland by continuing and progressing that success with the introduction by those large retailers of a simple "deposit and return" scheme.

If a consumer wishes to take a check-out carrier bag (wrongly referred to as single use) then a returnable deposit of, say, 5p per bag would be imposed at the check-out.

Upon the return of the used carrier bag, issued through such a "deposit and return" arrangement, a replacement bag would then be issued, much in the same way as a Bag for Life, and would cut out the need for the lengthy, confusing and complicated definitions/requirements as set out in Part 1. 3.(5) (b) of the proposed regulations.

Should the consumer fail to return the original bag for a replacement, having made an initial "deposit", then that deposit is lost and the retailer can choose, at a later date, to donate any forfeited "deposits", that have been accumulated, to an appropriate charity with the consumer having to then make further use of a "deposit and return" scheme should they require to be issued with further check-out carrier bags.

In doing this we not only encourage consumers to return used carrier bags but will see an increase the recycling of a manufactured product. This in turn has the knock-on effect of seeing waste and litter reduced, landfill requirements reduced, harmful carcinogenic emissions reduced but also enhances the Reduce, Reuse, Recycle message.

Not only that, the retailer can recoup any costs involved in the operation of such a "deposit and return" initiative by selling the returned carrier bags as plastic waste to a recycling company, such as Dumfries based BPI, who will take as much plastic film waste as you care to send them, and in turn, will convert that plastic waste into numerous other products including refuse bags and bin liners, etc.

By introducing an initiative such as a "deposit and return" the only people who suffer are those self-confessed "lazy ones" (copyright John Mason MSP 2013), who forget or choose not to return their used carrier bags, a bit similar to the Bag for Life offer whereby you lose your money if you don't return the bag for a replacement.

The difference with a "deposit and return" initiative, vis-a-vis the proposed regulations, is that it is neither a "charge, levy or tax" it is a simple deposit where, in effect the retailer retains the consumers deposit until such time as the consumer redeems it.

No need for any long-winded, confusing and expensive to implement legislation, no breaches of other laws or EU legislation, no VAT or tax implications, just a bit of common sense and extra effort to further educate consumers.

The proposed regulations now being scrutinised penalises everyone and fails in it's entirety to achieve any environmental benefits and also fails to encourage the recycling of a product that can be recycled numerous times into other products.

Members of the committee, I urge you consider rejecting the proposed regulations.
and to advise Parliament accordingly.

Bill MacDonald  Appendix 1

Please find [the following link] which may be of interest during your considerations.

Of particular note are the comments on pages 5, 6 and 7 where reference is made to the Scottish Parliament and other government associated bodies.


Bill MacDonald  Appendix 2

[For the attention of the] Delegated Powers and Law Reform Committee [and] Rural And Climate Change Environment Committee:

Reference:

(1) The Single Use Carrier Bags Charge (Scotland) Regulations 2014

(2) Climate Change (Scotland) Act 2009. Part 5 Chapter 5 / 88. Carrier Bag Charges

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Part 10: Summary

Dear Convener / Committee Members,

Further to my previous submission to the DPLR Committee and the RACCE Committee, which in-turn was forwarded by the DPLR Committee to the Scottish Government, I have since made contact with the office of Dominic Greive MP, the Attorney General to the UK Government, with regards to the devolved powers of the Scottish Government who propose to introduce legislation that involves the imposition of VAT.

The proposed legislation, being The Single Use Carrier Bags Charge (Scotland) Regulations 2014, is being introduced under the parent statute, Climate Change (Scotland) Act 2009, and not the Climate Change Act 2008 which is applicable in Wales.
Having received written correspondence from the Attorney General's Office the following is an extract from that correspondence which advises, in relation to the devolved powers of the Scottish Government to introduce legislation involving VAT, and I quote:

"The Scotland Act 1998 sets out which areas are devolved to the Scottish Parliament and which are not. Under Schedule 5 to the Act the following areas are reserved to the UK Parliament:

Fiscal, economic and monetary policy, including the issue and circulation of money, taxes and excise duties, government borrowing and lending, control over United Kingdom public expenditure, the exchange rate and the Bank of England.

The exceptions to this reservation (i.e. areas which are not reserved to the UK Parliament) include devolved taxes, including their collection and management. Those taxes which are devolved are set out in Part 4A of the Scotland Act 1998, which was added by the Scotland Act 2012. The devolved taxes are the Scottish rate of income tax, taxes on certain transactions involving interests in land in Scotland and tax on disposals to landfill in Scotland".

Copies of my correspondence with the Attorney General's Office can be made available should it be required.

In the meantime, I re-submit for your consideration the following amended submission where I bring to the Committees attention issues not only relating to VAT and Corporation Tax, but to other possible breaches of EU and UK law and further issues as indicated at Part 20 below.

PART 01

VALUE ADDED TAX

(01) The instrument or draft instrument proposes regulations that, by legislation, would impose a charge on consumers for certain carrier bags to which, with the "current position" of HMRC, being that there is an element of VAT that must be applied and ultimately paid for by the consumer. The only reference to VAT in the draft instrument is contained in Part 2. Section 8(b) which relates only to HMRC's powers to obtain information and power to enter premises, with no mention as to the applicable rate of VAT, manner of collection or to when and where it was agreed by the UK Government that VAT would be devolved to this particular piece of Scottish legislation.

(02) I say "current position" since earlier written advice in from John Muir, HMRC in Glasgow, to both myself and the Scottish Parliament in 2006 quite clearly stated that VAT was NOT applicable since the then proposed "levy" (which would also have been introduced by the full force of Law) meant that the retailer had no option but to impose any such levy onto the customer. (copies of this written advice can be made available if required).

(03) However, a recent enquiry to HMRC national help-line and to HM Treasury, to which David Gauke MP responded by pointing out that, in Wales, the legislation to
charge for carrier bags was introduced under a the Parent Statute, Climate Change Act 2008, a different Act to the Climate Change (Scotland) Act 2009. In responding it was also advised and confirmed, that in Wales, where the current minimum charge is 5p per bag, it is in actual fact 4.17p plus 0.83p VAT and not a simple 5p charge. This fact raises some concerns as to the imposition of the proposed legislative "CHARGE" - as against a "LEVY" - by the Scottish Government that involves VAT notwithstanding the possible criminal actions of any retailer unwittingly charging VAT when not registered to do so. This also raises some complex corporation tax issues.

(04) It is my understanding from the papers issued for the most recent 2012 public consultation on carrier bag charges, that the Scottish Government are seeking to introduce legislation in line with that introduced in Wales in 2011 whereby the net proceeds of any charge are to be distributed directly by the retailer to government suggested charitable or good causes. This is confirmed in the proposed draft instrument currently laid and is a blatant breach of Competition Law as previously advised by the former BERR and outlined at 22(b) below.

(a) It is also due to the particular method of collecting and distributing the proceeds of the proposed charge in the proposed legislation that make the proposed charge subject to VAT and a potential breach of Human Rights as outlined by DECC at 25(a) below.

(05) This is in direct contrast to the Carrier Bag Legislation in Northern Ireland where the retailer (unlike the proposed legislation in Scotland or the legislation currently adopted in Wales), is obliged by law to act as a collection agent for a carrier bag charge which is imposed on consumers with the proceeds of that charge then being passed on in full directly to the Irish Government's Department of the Environment. By collecting the charge on behalf of a department of the Irish Government, in this case the Irish Department of the Environment, the proceeds of the charge do not attract VAT.

(06) The Scotland Act 2012 has had a few selected taxes devolved to the Scottish Government but VAT is not included as one of those devolved taxes, and although the Act does provide for the introduction of further unspecified new devolved taxes, they are first and foremost subject to the agreement of the UK Parliament with the passing of the required legislation to devolve further taxes remaining within Westminster.

(07) It is currently the situation as far as VAT is concerned that issues relating to VAT remain a fiscal matter for the UK Government, and until such times as VAT issues are devolved from the UK Government. Without the consent of the UK Government it is outwith the powers of the Scottish Parliament to introduce any such legislation that attracts VAT to particular products or in the way in which VAT is implemented, collected and managed, and it is also outwith the powers of the Scottish Parliament to determine the applicable rate of VAT.

(08) In reference to the Scotland Act 2012 and the The Single Use Carrier Bags Charge (Scotland) Regulations 2014, the Scottish Government's Finance committee were made fully aware of the VAT complications on 30th May 2012 by HMRC deputy director and head of its devolution team, Sarah Walker, who, in advising that HMRC can veto requests to collect devolved taxes under new financial
powers devolved from Westminster to Holyrood, said, "A precedent was set in Northern Ireland where a plastic bag tax was proposed that HMRC said it would not operate".

(09) With the Scottish Government consultation papers clearly stating that it is "proposing a system consistent with that in place in Wales, to allow us to learn lessons from their implementation and to ease the administrative burdens on UK-wide retailers" the consultation process must therefore be deeply flawed and misleading to those who contributed to this consultation as it would appear that the Scottish Government, knowing full well that there were VAT issues, deliberately withheld this information from the consultation process since there was no reference made in the consultation document as to the reserved issue of VAT, the administration process, the fact that the proposed 5p charge was inclusive of VAT, likely HMRC complications, implementation issues, or even a possible VAT collection veto, and as such I suggest that the consultation should be determined as null and void.

(10) Also, in differing from Wales and Northern Ireland, where legislation on carrier bag charges for both those countries is introduced under the parent statute Climate Change Act 2008 the proposals to introduce carrier bag charges in Scotland will be legislated for under the parent statute Climate Change (Scotland) Act 2009 under which the Scottish Government's legislative competence, as determined in the Scotland Act 2012, at present does not extend to the collection and/or management of VAT revenues.

(11) You may recall that the Calman Commission, which was set up to look at a further devolution of tax powers, dismissed a proposal for part of the UK VAT revenues to be assigned to the Scottish parliament.

(12) It is perfectly clear, and not in dispute, that EU member states are obliged to impose VAT, and EU legislation also provides that VAT cannot be charged at different rates within a member state, however, at this moment in time, and it is important to remember, Scotland is not an independent country, and therefore not a member "State" of the EU, this means that VAT cannot be legislated upon by a Scottish Government whilst Scotland remains part of the UK, unless, or until such times as it is agreed by the UK Government to devolve further taxes, such as VAT, to a Scottish Government.

(13) It is important to understand that since the proposed draft legislation does not assign the full amount of the proposed carrier bag charge directly to a department, or agency, of the Scottish Government then the proposed legislative charge is subject to VAT and as such the introduction of VAT in any legislation must remain a reserved matter for the UK Government unless agreed otherwise by the UK Government. The proposed legislation should therefore be subject to scrutiny by the Delegated Powers and Law Reform Committee as per PART 09 (27) (a), (b), (c), (d) below.
PART 02

CORPORATION TAX

(14) Another situation I highlight, below, is Corporation Tax, which again is not a devolved tax within the Scotland Act 2012 and remains a reserved matter for the UK Government, it is for this reason the proposed draft legislation may also be subject to the scrutiny of the Delegated Powers and Law Reform Committee Procedure as follows where the following situation arises:

(15) (Retailer A) Is a VAT registered retailer and issues to its customers 10,000 carrier bags at the rate of 5p each which includes 0.83p VAT.

(a) Retailer (A) in addition to their normal turnover and profit, therefore accounts for additional profits from the sales of carrier bags amounting to £500.00. This equates to a net figure of £417.00 plus £83.00 VAT. In turn business (A) is liable to pay direct to HMRC the sum of £83.00 VAT which has already been collected, then has to pay corporation tax only on the remaining net sales figure of £417.00.

(b) Assuming this is at the rate of 22%, retailer (A) is liable for £91.74p tax on the additional profits derived from the sales of carrier bag.

(c) And with the 5p charge imposed by the full force of the law the VAT element within the charge goes directly to the UK Treasury.

(16) (Retailer B) Is not a VAT registered retailer and issues to its customers 10,000 carrier bags at the rate 5p each.

(a) Retailer (B) in addition to their normal turnover and profit, therefore has to account for additional profits from the sales of carrier bags amounting to £500.00. In turn retailer (B) not being VAT registered is then liable to pay corporation tax on the total sum of £500.00 which is additional profits derived from the sales of carrier bags.

(b) Assuming this is at the rate of 22%, retailer (B) is liable for £110.00 tax on this sales figure since retailer (B), not being registered for VAT, cannot, by law, charge, account for, or deduct, the VAT element, which HMRC state is included within 5p charge.

(c) Bearing in mind that HMRC have confirmed, and stated quite clearly, that the proposed 5p charge would be inclusive of VAT (4.17p plus 0.83p VAT) then it is quite obvious that retailer (B) would be illegally charging for VAT when not registered to do so. Furthermore, it is clear in this situation, that retailer (B) would be discriminated against.

(17) In the examples given, both retailers (A) and (B) would, through legislation imposed by law, be forced to charge their customers the same minimum charge for the same product and for the same quantity, returning exactly the same additional turnover and additional profit figures. Retailer (B) will therefore be clearly discriminated against by having to pay more in corporation tax than retailer (A).
(a) It also brings into question, due to the VAT element of the minimum charge having to be accounted for as taxable income by retailer (B), not only a situation which could take retailer (B) over the VAT registration threshold figure whereby retailer (B), although not wishing to be VAT registered, would then be legally required to do so.

(18) The Scotland Act 2012 does not give full fiscal autonomy on taxation matters to the Scottish Government where the power to collect and manage VAT remains as a reserved power with the UK Government.

It is therefore outwith the competence of the Scottish Parliament to introduce legislation involving VAT under the terms and provisions contained within the the Climate Change (Scotland) Act 2009, an Act to which the contents are only applicable in Scotland.

(19) Although the VAT situation is the main issue brought to your attention, item 10 in the Draft Regulations Accompanying Statement makes references to “contravening competition regulations”, item 11 refers to the “policy intention” being that net revenues “WILL” be donated to “charitable good causes” and “under a voluntary agreement to be negotiated between retailers” which is again repeated in the Safeguarding Scotland’s Resources: Blueprint For A More Resource Efficient and Circular Economy, 6.6, Action 20, in the second sentence.

(20) This is contrary to advice and guidance issued by BERR and DECC (formerly DEFRA) at PART 04 (22), (a), (b) in relation to Competition Law, and at PART 06 (24), (a) in relation to Human Rights.

PART 03

EU REGULATIONS

(21) Indirect taxation

(a) Article 110 EC prevents any Member State from imposing, “directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products”. This prohibition also extends to “internal taxation of such a nature as to afford indirect protection to other products”.

PART 04

COMPETITION LAW

(22) BERR (Business Enterprise & Regulatory Reform) as of June 2009 the Department for Business, Innovation and Skills (BIS).

(a) Office of Fair Trading have advised that any voluntary action where retailers co-operate to agree how to deal with the price of single-use bags could be interpreted as price-fixing and in breach of competition law.

(b) Any national agreement by retailers to charge a minimum price – even one requested by the Government itself – is likely in principle to be anti-competitive.
For such an agreement to be permitted, it would either need to demonstrate exemption from the **Competition Act** prohibition on cartels by satisfying certain economic criteria, or be specifically exempted by BERR as being in the overriding public interest.

**PART 05**

**COMPETITION ACT**

(23) **OFFICE of FAIR TRADING** (*Public bodies and competition law*)

(a) Types of agreement (whether formal or informal) that are likely to be prohibited under Chapter 1 prohibition and/or Article 101, include those which fix the price charged for goods or services, limit production, allocate markets or customers (whether geographically or by some other division), or involve collusive tendering.


**PART 06**

**HUMAN RIGHTS**

(24) **DECC** (Department of Energy and Climate Change)

(a) The only potential human rights issue connected with this proposal would be if the **Government decided to direct where the revenue raised by the charge needed to go – this could raise issues around expropriation of retailer income.** This would need to be explored if the Government pursued the proposal on this basis.


**PART 07**

**SALE OF GOODS ACT 1994**

(25) Given that the Scottish Government make it quite clear that the proposed legislation is not a tax, it is a charge, and therefore by definition a consumer purchase. The Sale of Goods Act 1994 gives protection to consumers who are charged for goods or products, in this case a carrier bag. No reference or consideration has been included within the public consultation paper or the draft regulations laid before parliament as to the rights and protection of consumers as per the following:

(a) Satisfactory Quality, Part S14 (2)
(b) Fitness for Purpose, Part S14 (3)
(c) Part V, Consumer requires Repair or Replacements

Derogation from this Act or parts thereof, are a matter entirely for the UK Government and its parliament to debate and in turn to legislate upon.
PART 08

UNFAIR TERMS IN CONSUMER CONTRACT TERMS DIRECTIVE 1999


(a) This directive also refers to consumer rights since a purchase can be deemed as a contract between consumer and retailer.

(b) Consumers are protected under this Directive, where those protective rights, and the implications affecting consumers being "charged" for a product, have not been addressed in the public consultation paper nor have they been addressed in the draft regulations laid before parliament.

Derogation from this Directive or parts thereof, are a matter entirely for the UK Government and its parliament to debate and in turn to legislate upon.

PART 09

DELEGATED POWERS AND LAW REFORM

(27) DPLR Committee guidance notes Chapter 10

(a) Rule: 10.3. 1(b)

A challenge in the courts could be made that the competence to introduce tax raising legislation is not a devolved issue.

(b) Rule: 10.3. 1(e)

That there appears to be a doubt whether it is intra vires.

(c) Rule: 10.3. 1(f)

That it raises a devolution issue.

(d) Rule: 10.3. 1(g)

That it has been made by what appears to be an unusual or unexpected use of the powers conferred by the parent statute.

PART 10

SUMMARY

In bringing the above matters to your attention I respectfully request members of the committee to consider and determine that the instrument or draft instrument now laid and proposing to legislate for the introduction of a carrier bag charge under the parent statute Climate Change (Scotland) 2009, in accordance with the Delegated Powers and Law Reform Committee guidance notes, as set out at PART 09 (27) (a), (b), (c) and (d), the Scottish Government has failed to take into account the issues highlighted and as a consequence request that a recommendation be made to the relevant Parliamentary committee that the proposed legislation is considered to be
unlawful and should be recommended to Parliament that the proposed legislation should fall.

I would also bring to your attention the conclusions submitted to the Scottish Parliament by the previous Environment and Rural Development Committee many issues, complications and unintended consequences were highlighted in 2006, those very same issues, complications and unintended consequences remain to this day. It should be of some concern that this proposed legislation, applicable only in Scotland and under a Scottish Act, appears to be questionable. Questions need to be asked of those responsible at the Scottish Government for drafting up and trying to push this legislation through with all the unresolved issues still a matter of concern.

Of considerable concern is the matter of VAT as indicated at PART 01 Value Added Tax. (01) to (13).

Bearing in mind that HMRC have made it very clear that the proposed charge is 4.17p plus 0.83p VAT, it must be asked of the Scottish Government when it was agreed by the UK Government to devolve powers that permitted legislation to be introduced under a Scottish Act where part of the proposed legislative charge made by some retailers will go direct to the UK Treasury, yet in some cases, although the charge would be the same, no part of the charge goes to the UK Treasury.

Who therefore, has decided that it will not be a criminal offence for a retailer to make a charge on a consumer that carries an element of VAT when that retailer is not registered for VAT.

Scottish Government officials being well aware of the implications regarding VAT, EU Regulations and Competition Law etc. have decided to ignore those implications in the rush to try and push the proposed legislation through regardless of the consequences. This must not be allowed to happen and I ask the committee to reject this proposed legislation in your conclusions to Parliament.

I take this opportunity to thank the respective committees for their consideration of all the complex issues contained in this submission and request that the proposed legislation be recommended for rejection by Parliament.

**Written evidence from Marks & Spencer**

Marks & Spencer is a leading retailer selling a wide range of food, clothing, footwear and home products from 46 stores across Scotland.

As part of our Plan A sustainability programme, we introduced a 5p charge on single use bags in our Food sections in 2008. This has proved to be highly effective and reduced usage by over 70% - a figure that was then further improved to 90% when supported by the universal adoption of charging in Wales.
To date, the monies raised from the charge in Scotland have been used to fund a network of parks and gardens with Groundwork UK, as well as Big Beach Clean-up events and marine conservation programmes across Scotland\textsuperscript{18}.

Based on this experience, we believe that irrespective of the impact being targeted, the most effective means of reducing the environmental footprint of carrier bags is to:

Reduce the consumption of all single use bags by encouraging consumer behaviour change in the form of re-use.

Communicate and support the message of re-use in a clear and consistent manner.

Ensure total transparency that charges collected from actions to restrain consumption are donated to good causes.

In addition, we would offer the following further detailed comments on the proposals for Scotland:

We strongly support the introduction of a mandatory charge across all types of single use carrier bags with the resultant monies being donated to charitable causes in Scotland in a way that is relevant to the context of carrier bag usage and transparent to the public. For this reason, we particularly welcome the proposed Scottish website where all distributors of carrier bags can publish their data and the recipients of donations.

Whilst there are ongoing concerns in Wales about the increased ‘replacement’ usage of re-usable bags, our experience is that these peaked in the first year after introduction of the charge but have now fallen back to levels providing a significant net environmental benefit. However, we concede that levels of replacement usage need to be monitored on an ongoing basis.

We support the proposed exemptions offered by the regulations, but for a business selling such a diverse range of products such as ours, defining (for example) when a horticultural products could be supplied in a ‘free’ single use bag and when it can’t are too complex. Consequently, we have chosen to adopt an-across-the-board ‘no free bags at the till point’ approach to avoid confusion.

We are also concerned about potential complexity and unintended consequences arising from rooting the regulations in the issue of physical waste and litter. Evidence provided by Keep Britain Tidy to the House of Commons Environmental Audit Committee in December 2013 confirmed that carrier bags are not a significant cause of litter\textsuperscript{19}. We would also highlight research published by the Environment Agency in 2011, that the most significant impact of single use carrier bags is resource use, with

\begin{itemize}
  \item Examples of M&S-funded charitable initiatives include working with Groundwork to reinvigorate a family play area at Gorgie City Farm in Edinburgh, and a project in South Perth, which involved transforming a disused piece of land into a community garden and allotment. We are also partnering with the Marine Conservation Society and the Canal and River Trust to fund a Big Beach Clean-up event at Fisherrow Sands in Musselburgh on 30\textsuperscript{th} April 2014.
  \item Keep Britain Tidy, written evidence to the House of Commons Environmental Audit Committee, published December 2013
\end{itemize}
a clear hierarchy of efficiency headed by reusables, polythene bags and then paper\textsuperscript{20}.

In particular, we are concerned that the current proposals attempt to encourage biodegradable or compostable bags, as this could see the retail sector ‘signposted’ to use replacement paper bags which would meet both requirements and be exempt from the charge and therefore more attractive to customers. This could result in Scottish charities losing these potentially significant revenues, an unchanged (or even increased) usage of single use bags and an increased resource (and carbon) footprint that has been estimated to be three times greater than at present (i.e. a 300\% increase)\textsuperscript{21}.

We are also concerned by the opportunities being offered by the supporting voluntary agreement for companies to retain monies to spend on their own behalf on Zero Waste activities in Scotland. Whilst clearly well meaning, in our view this measure would remove clarity and transparency, and require much more rigorous policing to reassure the public that their money is not being misused. Our preference would be for a more flexible system that allows retailers such as ourselves to determine where best the monies should be spent on charitable activities in Scotland (as we do now), including but not exclusive to, those focused on waste-related initiatives.

In conclusion, we are supportive of the outline proposals but would urge the Scottish Government to maintain a science-based clarity of purpose on what the regulations are trying to achieve. From our experience of charging for single use carrier bags at M&S, we believe the fundamental policy aim should be to encourage pro-environmental behaviour change from consumers through the greater adoption of re-use in order to support the circular economy and a more resource-efficient Scotland.

**Written evidence from Wm Morrisons Supermarkets plc**

**About Morrisons**

Morrisons is currently the third largest retailer in Scotland, employing 16,000 colleagues in 63 stores and serving 1.3 million Scots each week.

Morrisons is one of the UK’s biggest food retailers, with 505 stores, and we’re the only British supermarket to have our own food processing sites, abattoirs and even a farm. Every week, over 11 million customers pass through our doors and more than 129,000 colleagues across the business work hard each day to deliver great service to them. Our aim is to give our customers more of what matters to them, offering great quality food at low prices.

\textsuperscript{20} Environment Agency, Life Cycle Assessment of Supermarket Carrier Bags, published February 2011

\textsuperscript{21} Environment Agency, Life Cycle Assessment of Supermarket Carrier Bags, published February 2011
General comment

Morrisons intention is to donate the net proceeds of the carrier bag charge to good causes in Scotland. Those will primarily be good causes which have a resonance with our Scottish colleagues and customers.

Use of Net Proceeds in Wales

In Wales Morrisons donated the net proceeds of the carrier bag charge to our national charity partner, Save the Children, to use on projects in Wales. Last year £374,254 was raised through sales of carrier bags in Wales.

Since 2011 Morrisons specifically supported Save the Children’s innovative Families and Schools Together (FAST) programme. FAST brings families, schools and communities together to support children across the UK. By strengthening relationships, FAST helps to give the most disadvantaged children in the UK a better chance in life and the opportunity to fulfill their potential.

In addition to delivering FAST, in 2013 sales from Welsh carrier bags were used to raise funds for Save the Children’s Eat, Sleep, Learn, Play! programme.

Written evidence from J.Murdoch

Plastic carrier bags tax

*Additional taxation and gross inconvenience for Scotland’s people - is this what the people of Scotland hoped for when they voted for a Scottish Parliament?*

Dear MSP,

I know that experts in the field will have provided you with sound environmental arguments against introducing a tax on plastic carrier bags. I know also that some MSPs will point out that it is not a tax. Technically, it may not be, but in practice it is. Everyone will still need plastic bags, even if only for impromptu purchases.

I have no vested interest in this matter other than being Scottish and being a shopper. My submission below therefore is simply from a Scottish shopper. It will take you ten minutes to read it. I plead with you to read it and with an open mind. It is not too late to stop burdening Scottish people with gross inconvenience and additional expenditure for no gain.

Sadly, It has been said that once an assembly, any assembly, is given powers to take money off the people it is elected to serve, all it needs thereafter is time; time to consider in which of many imaginative ways it chooses to do this. Plastic bags is one.

People are taxed to the hilt already and drowning in household bills, Income tax, National Insurance, council tax, petrol tax, VAT at 20 per cent, ‘green’ taxes, excise duties, airline taxes and even death taxes. Now it is being said that a charge will make people think about their behaviour. So, in addition to all of the aforementioned taxes the proposal is now to tax us to make us think. God help us!
In 2006, after a rigorous, expert examination of a Private Member’s Bill, lasting two years and costing in the region of two million pounds and which was regarded as probably the most thorough conducted anywhere in the world, the Scottish Parliament’s Environment and Rural Development Committee, made up from ALL parties, UNANIMOUSLY recommended that the Scottish Parliament reject a proposed tax on plastic bags. They rejected it because of unintended consequences. In short, believe it or not, because it would be bad for the environment! Not a single member of this committee, which included Richard Lochhead and a representative from the Green Party, concluded in favour of a levy on plastic carrier bags. To their great credit, they came to this decision based on facts and not myths.

Sadly, the ‘Charges Brigade’ are allowed as many attacks on plastic bags as they wish while Ministers only have to weaken once, and then we will be needlessly paying for plastic carrier bags forever and a day against the logic of common sense. And, of course, once a charge is established then it will only ever go up, as sure as the sun comes up each morning.

I have to take my hat off to my opponents in this regard who are allowed repeated efforts to introduce a charge. They have done a magnificent job in convincing a sizeable (minority) of people that the planet can indeed be saved if we just start charging for plastic carrier bags! Of course, there is absolutely nothing wrong in re-using plastic carrier bags, and that is why the government funded organisation, WRAP, was delighted to point out that 74% of plastic carrier bags are, in fact, RE-USED, with this percentage rising. And yet, we still hear the constant, emotive, deceitful mantra of 'single use' carrier bags.

There is one other important point in this specific regard. Spare some thought for the hundreds of hard working, decent Scots folks whose jobs are under threat if charges are introduced. They have already lived through a stressful period in 2006 and now they and their families are being subjected to the same worries again at a time when jobs are being lost in tens of thousands. Don't leave these hard working, decent Scots people with the Sword of Damocles hanging over them forever and a day because a ridiculously easy, but false, environmental target has been identified.

Consultation should not even be necessary in regard to this subject. The view of the public can be much more accurately deduced from their consistent, convenient, popular use of plastic bags over the fifty years they have been around, in preference to any number of consultation documents.

**SOME RANDOM POINTS**

Plastic bags get linked with litter. And yet, our efforts to address litter are risible. While not attributing all litter to school children, any school in the country can be found by simply following a trail of litter. Do you know that the law in Scotland allows us to fine schoolchildren for dropping litter but the law does not allow for payment of the fine to be enforced? Joined up thinking? If the time, the money and the effort that has been thrown into an attack on plastic carrier bags over the past ten years had been instead directed at litter louts, what a much more beautiful country Scotland would be by now. Nine years after the Scottish Parliament opened, Scotland still does not have a litter strategy. That, of course, can
be observed from the streets.

Plastic bags comprise less than 1% of total litter pollution. HM Treasury say bags make up 0.3% of landfill - Sledgehammers and nuts spring to mind as does the absence of action to control littering with cigarette ends and fast food packaging, etc.

We know that 74% of plastic bags are re-used. Why then do proponents of a charge continue to deceitfully still refer to them as 'single use bags'? As for the 26% of bags which are not re-used, do people diligently wipe out and store plastic bags which have contained the leaking yogurt? Do people dry and fold away plastic bags which are wet inside from having contained frozen food? I would guess not.

I have many friends in Ireland and in Wales; not researchers, not environmentalists, not politicians but real people. They detest the inconvenience, the chaos and the expense that has been foisted upon them by their governments.

I appreciate that this particular point may alienate some MSPs but I say it because it is honest. There is something quite vulgar about being compelled to contribute to good causes/charities. (Remember, everyone will need a bag at some point.) If such a situation does come to pass then, sadly, that will be the point at which I will stop my regular contributions to charities. Indeed, any self respecting charity should decline contributions which have been extracted from unwilling contributors such as me.

Consider the needs of people with a disability. Are you aware of the sheer planning and the number of specific items that a carer has to remember to take when supporting a disabled person in the community? Do you want the carer now to be saddled with the task of planning for the number of plastic bags to take or, worse, just accepting that the person with the disability will pay this new tax – the one designed to get Scotland’s people thinking?

A recent independent Environment Agency report concluded that the manufacture of the thin plastic bag did the least damage to the environment of any carrier bags used, and if reused only once for waste, etc. you would have to use a cotton bag 327 times to gain the same environmental benefit. Do you know anyone who will use a cotton bag 327 times? Especially as their repeated use is now indisputably proven to result in a breeding ground for food contamination.

See also the Sunday Post link below which points out the very real risk to health from so called ‘Bags for life’. As it happens, Scotland already has the worst record for outbreaks and deaths in the U.K. attributed to e-coli contamination. Do we really need any extra deaths? Would even the clinical financial impact of just one extra death be worth the financial benefits to good causes? It certainly wouldn’t be if it was a member of my family!

I wrote to the government about this. I got a reply from Tim Chant saying, “The Food Standards Agency recommends that ready-to-eat food is carried separately from uncooked, and that when re-usable bags are concerned that shoppers always use the same bags for their uncooked food.” Where do these people come from? Does Mr. Chant seriously think that more than 100 people in the whole of Scotland will read this and that more than 50 will have the time to put it into practice? This is a
classic case of officialdom giving advice which they know fine well will not be followed but which allows them to respond with 'Now't to do with us guv – they were warned' when deaths arise. It is appalling.


SOME QUOTES OF INTEREST

The Consumer's Guide to Effective Environmental Choices believes that it's not plastic bags that are the problem, "... it's the anti-social behaviour of the people who discard them thoughtlessly". How so!

"It's always a retrograde step to introduce charging for some of your customers who are at the lower end of the earnings scale" (Alex Salmond, speaking on BBC Breakfast news, 18th August 2011, on the decision by RBS to exclude some cash machines from free facilities.) So, it is wrong for banks to charge poorer people to use their cash machines but it is right that the Scottish Government charges poorer people for a convenient bag in which to carry their groceries.

I previously made a complaint to the BBC about a Radio 5 programme which featured two people against the use of plastic carrier bags and NONE in favour of their use. In his reply to my complaint, Philip Abrams, Complaints Director wrote, "Firstly, the report prepared for the Scottish Parliament, and the website you directed me to, considered the question of whether a levy on plastic bags would be effective. I don't think it oversimplifies its findings much to say that it found the levy as planned, and a number of similar alternatives, would have, overall, more disadvantages than advantages, so it's not surprising that the Scottish Parliament rejected the levy." An objective observation from someone with no axe to grind!

An independent report carried out in 2005 by AEA Technology, and commissioned by the Scottish Government, concluded that a levy on plastic carrier bags would INCREASE Scotland's waste by 13,700 tonnes annually. Strange, but true! Check the report, or perhaps give Richard Lochhead a ring to confirm this fact. He was a member of the committee which studied this report. In 2006 he said, quote, "The SNP accepts the urgent need to cut down the amount of waste produced but this proposed Bill (to charge a levy on plastic bags) may have simply resulted in displacing the environmental impact of plastic bags to other areas .... even the introduction of a simple levy would turn into a legislative and practical nightmare ...." So true, Mr. Lochhead.

SOME FINDINGS FROM THE 2006 CONSULTATION

Just a few councils attempted an estimate of the costs of setting up and monitoring the scheme for charging for plastic bags. Oh, yes? Well, I can tell you right now that these will be an underestimate. Let me say how councils traditionally operate. The staffing post is advertised, the post is filled. The employee needs a car/car allowance. The employee needs a desk and, of course, then a computer. The employee then needs expensive training – the whole gambit but mainly in health and safety – then expensive annual refresher training. The employee soon needs an
assistant. Thereafter the employee needs a promoted post. Soon, the employee needs a department. And, on and on it goes with costs spiralling all the time. If the very concept of plastic bags was subsequently to disappear off the face of the earth then you can be sure that the council monitoring officers and their incumbent expenditure will not! Redundancy is hardly known within councils.

What was chilling was to actually read in the Explanatory Notes an estimate of up to 430 businesses having action taken against them for non compliance. Shop owners, almost without exception, work hard and work long hours, some having done so all their lives. Now there is an expectation that up to 430 of them will end up with a criminal record because they have fallen foul of the Bill, a Bill whose objectives are fiercely disputed. In addition to the above, we can expect more costs/workloads in pursuing prosecutions while simultaneously adding yet more straws onto the Courts’ camels’ backs which are already at breaking point. On top of this, the charge will bring significant added paperwork, particularly to the smaller shops who have no dedicated administration staff. **Is this the sort of ‘help’ busy owners of small shops envisaged from a Scottish Parliament?**

SEPA’s conclusion was that there was “insignificant scientific information’ available to determine the success of the Bill’s aims of raising public awareness and combating litter …. the proposed scheme may not provide a net environmental benefit – **The inconvenience to be put upon the Scottish people is too great for the sake of an experiment.”**

The Association of Scottish Community Councils argued that a levy would raise an insignificant amount and **would hit low income groups hardest** – Is this the time, is there ever a time to introduce Bills which will hurt low income groups hardest? M.S.P’s. earn good salaries. They must think long and hard about this one and try to imagine themselves in the position of people who are not so fortunate as themselves.

Perhaps the most damning condemnation was contained within the Policy Memorandum. In referring to Equal Opportunities it acknowledges that the Bill could affect those on low income more than other groups and that some ethnic minority groups, disabled people, women, single parents and older people are likely to be amongst those on lower incomes. It acknowledges that these groups are likely to be inconvenienced more than other groups as they are unlikely to have their own cars to load boxes into and therefore will require suitable means to carry their purchases home. **Again I ask, did these groups of people ever anticipate that this would be the sort of ‘improvement’ brought to their daily lives by a Scottish Parliament?**

**BBC EXCELLENT**


**IF YOU READ NOTHING ELSE, PLEASE READ THIS ARTICLE WHICH SUCCINCTLY DEBUNKS THE MYTHS THAT THE ‘CHARGING BRIGADE’ THROW AROUND AT EVERY OPPORTUNITY. BELOW IS JUST ONE EXCERPT WHICH DEALS WITH THE LAUGHABLE CLAIM THAT PLASTIC BAGS KILL MILLIONS OF ANIMALS EACH YEAR.**
“It is said that plastic debris is more than just a visual waste problem.

It is claimed it kills millions of animals across the world each year.

**Curiously plastic bags are not the main villain - they are not even one of the minor players.**

A government source reports that 96% of dead North Sea fulmars (seabird) were found to have bits of plastic in their stomach.

None were reported to have any contact with a plastic bag or to be tangled in one.

**Plastic bags seldom kill animals**, but general plastic debris kills animals by the million.

**One of Greenpeace's top scientists** claims that the plastic bag issue has been distorted by confusion and hysteria.

"**It's very unlikely that many animals are killed by plastic bags,**" said Greenpeace's marine biologist David Santillo. The evidence shows just the opposite. We are not going to solve the problem of waste by focusing on plastic bags."

**SOME EXCERPTS FROM NEWSPAPERS**

http://www.telegraph.co.uk/earth/environment/8336693/Plastic-bags-less-damaging-to-environment.html

1.1 21st February, 2011

1.2 Plastic bags may not be as bad for the environment as previously assumed, and may in fact be better than their “eco friendly” alternatives, government research suggests.

A draft report for the Environment Agency showed that the production of high density polythene (HDPE) bags used by shops had less impact on the climate than cotton or paper bags.


21st February, 2011.

“Cotton bags offered by many supermarkets may be less 'green' than plastic carriers - and may cause more global warming, according to scientists. As a greater amount of energy goes into making a cloth carrier than a polythene one, a cotton bag has to be used **131 times before it has the same environmental impact than its plastic counterpart.**

“Unpublished Government research suggests the plastic carrier may not be an eco villain after all – but, whisper it, an unsung hero.”

SOME CO2 STATISTICS

One long haul return flight = 500 years of plastic bag impacts for a household. FACT!

The total annual consumption of plastic carrier bags in Scotland = 10 minutes of flight activity over Heathrow Airport. FACT!

(Why do we Scots beat ourselves up so? EU target is to cut emissions by 20% by 2020 - the UK target is 34% - Scotland’s is 80% by 2050. The annual increase in China’s emissions is greater than the UK’s total, with Scotland responsible for only 10% of the UK’s total. Again, why do we Scots beat ourselves up so? We don’t have to be the greenest nation on the planet which hammers down the competitiveness of our businesses.)

While not linked primarily to CO2 but more to ‘Why do we Scots beat ourselves up so?’ I noted that when plastic carrier bags were first introduced that Tesco reported a 5% reduction in time that people spent waiting a check-outs. With all the fiddling for change, the time consuming cramming of goods into the minimal number of bags and the general chaos that charges will bring, I think we can conservatively estimate that at least 5% will be added to the time Scotland’s harassed shoppers will be wasting at the check outs. MEANWHILE, in England, £25 million pounds has just been spent on the London to Nottingham rail line to knock just four minutes of people’s journey times. So, why DO we Scots beat ourselves up so?

SUMMARY

Please do not be fooled by the much proffered claim that, "My old mam used to do her shopping in a shopping bag that she’d had for twenty years." The reason your old mam managed this was because she stayed at home! She did the cooking, she did the washing and the cleaning, and more. And, DAILY, she went with her one shopping bag to the corner shop (which is no longer there) to do her daily shopping and she topped up later in the evening from the grocers' vans which went round the doors. Times have changed. Most families would now have to cart 10-15 of these bags to the supermarket to carry the family's WEEKLY shopping, if indeed the family can find a slot to do the WEEKLY shopping in today's busy, often stressful lifestyle.

Yesterday, I bought fruit from an outdoor stall which has been on the town’s High Street for years. It is run by three older gentlemen. The rain was incessant and the water was dripping from them. They sell bunches of fruit in round pounds. Now they could find themselves fiddling about with small change in all weathers. I doubt that this is one of the ‘benefits’ they expected from a Scottish Parliament.

The report before the E.R.D.C. committee in 2006 very clearly acknowledged that a tax on plastic carrier bags will impact most on people with a low income and people with a disability. Did these people expect such a tax when they voted for a Scottish Parliament?
I make one final plea to you because it is the one which will impact on your fellow Scots the most. Before you vote, please, go and watch the check outs in a busy supermarket. In your mind's eye see the queue; see the person in front of you, including older people and people with a disability who already do magnificently in the rigours of supermarket shopping, footer about, trying to unravel the correct number of plastic bags brought from home before trying to calculate the minimum additional bags they have to purchase, followed by the recount when these are not sufficient. Or, alternatively, having to pay the charge that is proposed from their low incomes. See the additional delays adding to an already stressful chore as people re-group from the spillages as they try to cram ever more items into a single plastic bag. **Ask yourself, were you really elected to make life more difficult and stressful for your fellow Scottish citizens?**

It is not too late to stop the introduction of this utterly pointless, miserable charge which will do nothing for the environment but which will make trying to get through a supermarket checkout an even more lengthy and miserable experience than it is at present, particularly for children. Usage of plastic bags has already fallen through encouragement; a 'tackety boot' approach is not required. **Scotland's people, particularly its older people and its disabled people, deserve to be treated better than this by MSPs!** Please, consider the facts, and be brave enough to kick this miserable, nuisance charge into touch.

### Written evidence from Sainsbury’s

As a multiple retailer with over 1,200 stores across the UK, Sainsbury’s has significant experience of the implementation of the carrier bag levies in both Wales and Northern Ireland. We are pleased to have the opportunity to share with the Committee the way we approached the introduction of the charge in Wales, as well as outline some of the relevant issues for the Committee to consider as it scrutinises the draft regulations. We have been working with the Scottish Government and Zero Waste Scotland as they consider the implementation of the regulations, to help ensure an effective and proportionate approach that is workable our customers and colleagues.

Our approach to the Welsh Government’s carrier bag charge is underpinned by our corporate values of respecting our environment and making a positive difference to our communities. These values drive our business, and as part of our 20x20 corporate responsibility strategy we are committed to putting all waste to positive use, reducing our own packaging by half as compared to 2005 and donating over £400 million to charitable causes, through local and national partnerships, by 2020.

When the regulations were implemented in Wales, to encourage and enable customers to reuse their bags, we took the decision to remove single-use bags from our stores, replacing them with a new 5p bag for life. This reusable bag is made from 100% recycled content and it is 100% recyclable. We also replace it, free of charge, when the bag is worn out, recycling the old one.

Single-use bags were retained for online deliveries as it is not possible for customers to reuse a bag for life online, and we charge a flat rate of 40p per online order, based on eight bags being the average number used per order.
As the Committee will be aware, the Welsh Government did not regulate on how the proceeds of the charge should be used but they did develop ‘Guiding Principles for the use of net proceeds of the Single Use Carrier Bags Charge’.

Reflecting our ongoing commitment to make a positive difference in the communities in which we operate, we voluntarily took the decision to donate the net proceeds from the levy on single-use bags (i.e. those used when customers shop online) to charities and community groups in Wales, establishing a Welsh Community Grant Fund to help spread the impact. We publicise this fund through our Welsh stores, and it allows charities and community groups in Wales to apply for up to £500 per group to go towards an initiative, activity or event. Applications for the funds are considered by a committee comprising colleagues from across the business, and any money that is not awarded by the end of the year is donated to our Welsh stores’ Local Charity partners.

Through this mechanism, a wide and diverse range of charities and community groups have received funding. We believe that the voluntary arrangements currently in place are an appropriate approach and work well. For the year 2012/13 the levy on single use bags resulted in over £50,000 being donated to the Welsh Community Grant Fund.

In addition, to the Welsh Community Grant Fund, each of our stores has a Local Charity partner, chosen by customers and colleagues. We voluntarily donate all profit from the 5p bag for life to these registered charities, which have a direct relationship with the stores in which the money was raised. In the year 2012/13, over £48,000 was donated to stores’ charity partners in Wales.

As the Committee considers the regulations, we hope this example of how we have implemented the charge in Wales is helpful.

We also believe it is important the Committee considers the importance of smart, proportionate and targeted regulations. It is clear from the example above that a flexible approach can enable businesses to respond effectively to both the letter and the spirit of regulations, and to the benefit of communities, while also reducing the number of single-use bags that are distributed. We believe the regulations and the subsequent implementation of the charge in Scotland should follow the example as set out in Wales.

We also believe it is essential that the implementation of the single use carrier bag regulations is accompanied by a clear and timely communication strategy to help raise awareness among the public of the changes they will come across in stores across Scotland. Our 8,000 colleagues working in our 82 Scottish stores will be at the forefront responding to customer queries regarding the Government’s charge, and we believe it is right that they are supported by a timely and highly visible public awareness campaign.

**Written evidence from the Scottish Retail Consortium**

The Scottish Retail Consortium is the lead trade association for retailers operating in Scotland and represents retailers large and small selling food and non-food, operating on the high street, in rural communities, out of town and online.
Our members already charge for carrier bags in Wales and Northern Ireland and we have brought that experience to our involvement in the proposed regulations in Scotland. The SRC has been engaged with the Scottish Government and Zero Waste Scotland on both the regulations and latterly on proposals for a voluntary agreement governing the use of the proceeds of the charge.

We are, however, very disappointed that the Committee has decided to solely focus its attention on how retailers propose to use the proceeds from the charge. Not only are the discussions with the Scottish Government and ZWS on the voluntary agreement just coming to a conclusion now, making it difficult for many of our members to definitely state how the proceeds of the charge will be directed, the use of the charge is outwith the scope of the regulations.

It is therefore highly regrettable, not least in the interest of better regulation that the Committee has chosen not to scrutinise the purported effectiveness, fairness or wider ramifications of the regulations. Indeed, the Scottish Government has consistently made clear that the policy intention was to reduce the use of single-use carrier bags and wasn’t simply an exercise in raising money. Quite simply, if the policy is effective then there will be diminishing returns in revenue from the charge.

The SRC has decided not to appear before the Committee as we don’t see the value in reporting on how the charge might be used by members when the parameters of the voluntary agreement are only just being finalised.

In broad terms, however, we can inform the Committee that SRC members have an excellent track record in Wales of donating the proceeds of the charge in a transparent and open way to local communities, charities and a range of other good causes. In Scotland, as in Wales, our members support the principle that the proceeds of the charge should be donated in Scotland to the benefit of local communities, charities and other worthwhile good causes. These donations should be transparent, accountable and at the discretion of the retailer.

One final point we believe the committee should be considering is the very important aspect of how and when the charge will be communicated to the general public. As I am sure the committee will agree, a clear, consistent and timeous programme of communications is vitally important to ensure that the public are made aware of the new regulations but also to ensure that retail staff are not unduly harassed by any customer who feels aggrieved by the new charge.

Retailers will, of course, undertake their part to communicate the charge to customers but we believe that, as this is a policy being introduced by the Scottish Government through regulations, it should take ownership of the main communications of the charge to the public.

Whilst we appreciate that the purdah period ahead of the independence referendum poses an additional challenge, experience in other jurisdictions, suggests that communicating clearly and communicating early is incredibly important. A short two-week campaign immediately before the charge is to come in force would, for example, be insubstantial.
Written evidence from the David Tyson

I admit with pride to being an Englishman, but I am deeply concerned about the negative effects and unintended consequences the above proposed regulations will have in damaging the Scottish Environment permanently, therefore I hope you will seriously consider the following facts and have the courage to reconsider the proposals and reject them.

Although the term 'single use bags' contravenes the product description laws, as demonstrated by the WRAP and DEFRA studies, for ease of identification by the Parliament Ministers, I will use the language used in the "Draft Scottish Statutory Instrument for the following commentary.

During the period the 'Pringle Bill was being considered I was heavily involved in presenting the Plastics Industry views on the effects of reducing the availability of the so called 'single use bag' So often during that period it was said "they would say that wouldn't they?" Nothing could be further from the truth as in fact, as proved by REAL experience in Southern Ireland there was a direct correlation in the significant increase in use of all bags as the 'single use' bag was reduced . Therefore it was a sincere, rather than a commercial desire by the Plastics Industry to point out that, whilst in the long run it could obtain a net gain in the use of Plastics from reducing the use of 'single use bags' it had a responsibility to ensure it acted in the best interests of protection of the Environment'.

I am no longer involved with the Industry being a 'retired old man' who just wants to leave our Island in the best condition for my Grandchildren to inherit, and all my comments are made with that intention.

LITTER

I notice in the accompanying statement - Point 3. One of the main policy drivers is stated 'to reduce litter and Scotland’s Zero Waste Plan, the two areas are not linked in their solutions as the proposed legislation suggests, and the statement assumes the action proposed will improve both areas.

Litter is a social and society problem, no manufacturer puts a bag of any kind on the market for it to become litter but without proper responsibility by society all bags and anything else for that matter can become litter, education is the answer and proper enforcement of litter legislation. To punish the supplying industry for the misdemeanours of society is crazy. Would you think of removing the manufacture of Motor Cars, because when they are used improperly they injure people, of course not. You would advocate better education and training together with enforcement of driving laws ! Well this logic should apply to the users of carrier bags!

In Point 5. It suggests "Society's big beach clean-up usually reports plastics bags as being a common beach little item" this gives the impression it is one of the most significant. I suggest by the way this is described , the person who wrote this knows the statement is patently untrue, and it is designed to mislead those considering approving the legislation. An analysis of the "Top 20 litter Items" found in the 2010 Big Weekend MCS Beachwatch showed that all Plastic bags to be thirteenth in commonality and only represented 2.2 % of all litter found. 'Single - Use bags will
only be a fraction of the 2.2% so why the fixation to remove them as this will have a very small effect on the Beach Litter problem. Indeed Plastic bags are less than 1% of all litter in the U.K. and take around 0.3% of space in land-fill.

I therefore submit that removing single use carrier bags will do little to solve the 'litter problem' but will significantly increase the environmental effect of consumer shopping as explained in the following comments on substitution.

**ENVIRONMENTAL IMPACTS OF REPLACING 'SINGLE USE' BAGS**

If the single use bag is reduced consumers will have to switch to thicker re-usable bags which is of course the objective of the proposal. One cannot argue about re-using bags and thank goodness the 'one trip' bag isn't, as it is reused, as shown by the studies by DEFRA and WRAP. All carrier bags should be reused-recovered and re-cycled wherever possible.

However to achieve the same low Co2 environmental effect the 'one trip' bag causes in manufacture, many of the re-usable bags need to be used many times more than they currently are, e.g. the cotton bag would have to be used 327 times to match the 'one trip' bag re-used just once, highly unlikely the consumer would use the cotton bag this amount of times!

(See the Environment Agency Report SC0304148)

Additionally consumers forget to take sufficient bags with them, or shop on a spontaneous trip, so they have no bags with them. It is highly likely with the proposed charge for the 'one trip' bag they will buy additional alternative thicker bags increasing their environmental footprint even further. Most households have at least 11 reusable bags and find that the number of 'bags for life' keep increasing on their premises due to these effects. Just take time to look in your own household and ask a few friends if they remember to reuse them each time they shop?

In Southern Ireland nearly all plastic Bags are imported as it has little indigenous manufacturing of such products and therefore the official trade import statistics reflected what has happened. The Irish import history shows that prior to the charges being imposed they were reporting a total of plastic bags imports around 19,000 tonne, despite a reported claim of a 90% reduction in the use of the 'single use' bag. In 2005 the figures showed an increase in imports to 27,777 tonne and by 2006 this was 31,378, i.e. an increase of 3,500 tonne over those two years alone, whilst the U.K. reduced consumption by 1000 tonne over the same period. The latest figures show some improvement with 2010 imports being reported at 20,956, i.e. nearly 2,000 tonne ahead of the level before the charge was introduced and this is despite the fact that polymer technology has resulted in most bags being reduced in thickness during that period by 30%. The earlier figures were all verified in the AET report commissioned by the Scottish Parliament.

This shows Real Evidence that the net effect of a country that has taken the action being proposed in Scotland, saw a substantial increase in the volume of plastic being used and passed to the waste stream.
Much of the increase reflects that the 'single use bag' is in fact far from 'single use', a recent study by WRAP found that 74% of them are in fact re-used, this compares with a study by DEFRA carried out in the early 2000's showing a figure of 80% . Therefore this reflects that a substantial number of consumers in society still re-use their bags, contrary to popular misconception, and the removal of such will force them to buy additional bags to fulfil their current practices - e.g. exactly what happened in S. Ireland. The reuse figures are not those supplied by industry but by Government Department studies!

The use of reusable bags for food carrying brings with it an added responsibility by the consumer to regularly wash the bag to kill bacteria from previous contamination by goods carried in them and the consequential cross contamination of bacteria on food. This was recently highlighted by comments from The Food Standards Agency and the further statement by the leading Aberdeen University bacteriologist Professor Hugh Pennington who said "There is a real issue here as we could see an increase in the number of cases of food poisoning. We have to be careful about being too strict in forcing people to re-use bags. There are some bags that you should only use once, so I would be very unhappy at having a 5p charge on bags that are being used for food".

American scientists presented evidence last year that plastic bag bans are bad for public health. Research by Joshua D Wright from the university of Pennsylvania found a 25% jump in A&E admissions for bacterial infections like E. coli after San Francisco banned plastic bags. Scotland already has an unenviable record in the level of E. coli infections in recent years and certainly owes it to its population not to increase risks.

OTHER CONSIDERATIONS

Item 7 of Policy Objectives : Suggests that by charging for carrier bags it will put a value on them in the consumers minds, I would submit the value has nothing to do with costs if this was the case Government would increase its value to voters by increasing the costs to run it ! Value is to do with usefulness at lowest cost and the perception of the re-use bag is that it is excellent value in that once it has carried home the shopping it can be re-used. Of course they have to be paid for by the shopkeeper and supermarkets and of course the large retailers will be delighted that this cost is being shifted to be directly borne by the consumer as they will be allowed to charge costs including administration out of the 5p, this will inflate their profitability significantly, in some cases by millions of pounds, which will result in the consumer particularly the poorer to be worse off by paying a minimum charge for their bags.

It is totally wrong and possibly against 'human rights' that consumers should be forced to pay for goods the profit of which will go towards a charity not of their choice, this also brings in religious ramifications as to where the donations go.

By fixing the price a product can be sold at this is in effect creating a cartel, the fact that the profit is being donated to a charity is of no consequence. There are also issues of restraint of trade by removing the competitiveness differential of competing materials by distorting the total selling price.
SUMMARY

Whilst I have always supported the principle of reuse, recovery, recycling as the preferred option to limit damage to the environment, the uninformed wholesale attack on the thin carrier bag as seized on by some Politicians and Press in order to "INFLUENCE" thinking rather than "INFORM" the public, is resulting in conclusions that are environmentally damaging and unscientifically based. I sincerely hope that the Scottish Parliament will not also be fooled by this and the proposed regulations be rejected.
The Single Use Carrier Bags Charge (Scotland) Regulations 2014

Background

Section 88 of the Climate Change (Scotland) Act 2009 provides Scottish Ministers with the powers, by regulation, to:

- require suppliers of goods to charge for carrier bags, and
- for the net proceeds raised to be used for environmental protection, improvement or similar.

Section 88 also states that the regulations may include provisions about who the regulations applies to:

- the type of carrier bags that the regulations apply to
- the minimum amount of be charged
- how the net proceeds are to be determined
- the purposes that net proceeds are to be applied to, and
- the keeping and production of records.

Sections 89 and 90 make provision for the enforcement bodies to be the Scottish Environment Protection Agency (SEPA), a local authority or any other person or body as the Scottish Ministers feel appropriate and for penalties for those that commit an offence to be:

- a fine not exceeding the statutory maximum (summary conviction), or
- a fine (conviction or indictment).

Consultation

The proposals to introduce a single use carrier bag charge were included as part of a Scottish Government consultation called Safeguarding Scotland’s Resources that was launched in June 2012. In June 2013 the Government published an analysis of the consultation responses.

The consultation analysis found that:

- Ninety-four per cent of the responses (campaign and standard) agreed with the proposal to introduce a charge for carrier bags agreed. Of the non-campaign responses received 60% explicitly agreed or partially agreed and 37% explicitly disagreed with the proposal (all of the 594 campaign responses supported the charge).
The main reasons cited by those in support of the proposal were that:
  o charging has worked well previously and elsewhere
  o charging for carrier bags constitutes a powerful behaviour change message, and
  o carrier bags contribute to pollution and litter.

The most common reasons given by those opposed to the introduction of a charge for carrier bags were that:
  o consumers may buy other bags such as bin liners to compensate
  o the proposal may have little impact on resource efficiency, and
  o the proposal is based on a false premise of carrier bags as 'single use'.

Many of those responding felt that if charging for carrier bags is introduced, the scheme should include all retailers and all single use/disposable carrier bags, regardless of material.

There were mixed views on the minimum charge per bag with most (61% of those providing a view) supported the proposed 5p charge, others suggested higher charges ranging up to 20p per bag.

The Draft Single Use Carrier Bags Charge (Scotland) Regulations 2014

A pre-laying draft of The Single Use Carrier Bags Charge (Scotland) Regulations 2014 was laid before the Scottish Parliament on 12 September and a 90 day representation period followed. During this scrutiny period the Scottish Parliament Delegated Powers and Law Reform Committee also reported on the draft regulations. On April 3rd 2014 The Single Use Carrier Bags Charge (Scotland) Regulations 2014 were laid in the Scottish Parliament.

The accompanying Policy Note states that the main policy drivers for the instrument are:

“..the requirement to reduce litter, Scotland’s Zero Waste Plan and Safeguarding Scotland’s Resources which together set out our approach to preventing and managing waste, and using resources more efficiently.”

The regulations:

• require retailers to charge at least 5p for most single use carrier bags
• define the bags that are within the scope of the regulations including the material that they are made from (plastic, paper and other plant/starch based material)
• apply to all retailers, regardless of type or size
require retailers with ten or more full time equivalent staff to keep records and make these available to the enforcement authority on request

specify exemptions from the charge.

Part 1 - Introduction

Regulation 1 provides for the regulations to come into force on 20th October 2014.

Regulation 2 defines a number of terms used in the instrument.

Regulation 3 sets out the types of carrier bags that are covered by a requirement to charge. This requirement includes bags made from paper or other natural materials (other than a cloth bag) and plastic bags no more than 49 micrometres thick and those not intended for re-use.

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

Part 2 – The charge: requirement to charge

Regulation 6 states that a supplier must charge for a single use carrier bag supplied new and that this charge should not be less than 5 pence.

Regulation 7 introduces the Schedule of circumstances in which the requirement to charge does not apply. Exemptions include single use carrier bags used for unpackaged food or feed for human or animal consumption, packaged uncooked fish or fish products, meat or meat products and poultry or poultry products, pharmacy medicine or an unpackaged axe, knife or blade.

Part 3 – The charge: net proceeds raised by the charge, and records

Regulation 8 sets out a requirement on any supplier employing 10 or more full time members of staff to keep a record for each reporting year.

Regulation 9 provides for the supplier to determine the net proceeds by deducting any “reasonable costs” and the amount of any VAT included in the charge. Regulation 9 defines reasonable costs as costs incurred by a supplier to comply with the regulations and communicate information about the charge.

Regulation 10 requires suppliers to keep a record of the number of single use carrier bags supplied, the sum paid to the supplier for these bags and the net proceeds raised by the charge.

Regulation 11 provides for a supplier to keep the records outlined in Regulation 10 and provide these to the enforcement authority on request.
Part 4 – Offences and enforcement

Regulation 12 sets out the offences for a retailer associated with failing to charge or failing to keep a record, making a false entry or providing false or misleading information to the enforcement authority. The regulation states that a person found guilty of such an offence is liable to a fine not exceeding the statutory maximum of £10,000 (on summary conviction); and on conviction on indictment to a fine (unlimited).

Regulations – responses to the pre-laying draft

A Scottish Government Statement published alongside the regulations in accordance with the requirements of Section 97 of the Climate Change (Scotland) Act 2009, provides a summary of the representations made by stakeholders during the consultation period. Comments made by stakeholders relate to the timing of implementation, the definition of a single-use carrier, exemptions from the requirement to charge, the requirement to keep records, enforcement powers and communication of the charge to customers.

In response to the consultation on the draft regulations the revised regulations as proposed include a number of changes. These include:

- The pre-laying Regulations encompassed suppliers outside Scotland sending goods to be delivered within Scotland. This aspect of the regulations has been changed to that only suppliers in Scotland are included.
- For the offence of failing to charge, the regulations propose a defence for a supplier to show that it has taken all reasonable steps and exercised due diligence to prevent the offence being committed.
- The pre-laying Regulations did not exclude smaller retailers from the record keeping requirements placed on suppliers. The revised regulations as proposed exempt retailers employing less than 10 or more full time equivalent staff to determine the net proceeds of the charge and to keep and produce these records.
- The pre-laying Regulations required retailers to publish a record of information ‘prominently on the website home page’ or ‘in a notice displayed in every premises of the supplier to which customers have access’. This requirement has been removed as the Scottish Government concluded that “the enabling power in section 88 of the Climate Change (Scotland) Act 2009 is not wide enough to enable a measure of that type.”
Enforcement – Regulatory Reform (Scotland) Act 2014

Section 43 of the Regulatory Reform (Scotland) Act 2014 makes provision for fixed monetary penalties to be imposed in respect of offences under the Instrument. The Policy Note accompanying the draft regulations notes that

“The Regulations will be amended in due course to enable local authorities to issue fixed penalty notices where there is reason to believe an offence has been committed...The introduction of fixed penalties will provide a more proportionate enforcement option for cases where prosecution might not be appropriate.”

Proceeds

Members of the Rural Affairs, Climate Change and Environment Committee expressed a desire to focus their scrutiny of the regulations around the deployment of proceeds from the charge.

According to the Scottish Government consultation Safeguarding Scotland’s Resources in 2012 an 80% reduction in the number of carrier bags would raise an estimated £5m per year for good causes.

Respondents put forward a number of different views about how revenue raised from the charge should be spent. Some respondents, including the Scottish Retail Consortium (SRC) and the Federation of Small Businesses (FSB) advocate that retailers should be given flexibility in how they donate funds. The SRC suggest that:

“We believe there should be some flexibility in how retailers can donate the funds. This has worked well in Wales where the preferred but not designated option is environmental charities and believe many retailers will follow the same approach in Scotland”

In their consultation response the FSB echo this view, noting that:

“..businesses want to choose which charities they support. For example, many small businesses are rooted in their local community and prefer to donate to local causes e.g. supporting local children or local hospice.... Half of businesses chose to donate to a charitable cause supporting children or young people. Other businesses prefer to donate to charitable causes linked to their type of business.... We firmly believe that it should be left to individual businesses to decide which charities will receive proceeds from carrier bag charges, rather than being restricted to litter/environmental causes.”

The FSB also suggest that consideration should be given to the ability of local businesses to collate proceeds to support specific local projects:

“The Scottish Government could consider whether local businesses could, if they wished, pool proceeds from charges for other local environmental improvements e.g. community clean up. This would require some organisation to collect or hold monies raised.
Clarification on whether this would be possible within the scope of regulations would be helpful.”

In contrast some of those responding put forward specific areas that should receive preferential support including resource management and local environment projects. Aberdeen City Council suggest that:

“Directing net revenues to good causes is ultimately supported however it would be appropriate for those to be involved in the resource management sector or community based local environmental improvement projects should be preferentially supported.”

In their consultation response RSPB Scotland propose that all the funds should be used to achieve environmental benefits:

“We welcome the recommendation in the report that the Scottish Government “consider a proportion of the revenues being raised used to support environmental projects” but suggest this should be stronger. The report should recommend that all funds be channeled to good causes that deliver environmental benefits.

The Chartered Institution of Wastes Management (CIWM) note that:

“…we believe that a significant proportion of the money raised should be used to promote behaviour change with respect to resource management and to support social enterprises that are involved in sustainable resource management.”

Consumer Focus highlight that the use of the revenue in the local area could help boost confidence in the charge:

“Consumer confidence could be boosted by ensuring that charges from local retailers are used to benefit the environment or organisations in the local area. Some of the focus group participants in the Welsh focus groups mentioned using the charge to improve local recycling facilities. While these proposals are still under consideration it would be useful if the Scottish Government conducted its own research to seek consumers’ view on the contributions to good causes.”

A number of organisations provided further views to the Scottish Government on the application of net proceeds in response to the publication of the pre-laying draft of the regulations. The Scottish Government have not published these as individual responses however the accompanying statement published alongside the regulations provides a summary of these and some organisations have published their consultation responses themselves.
In their response Keep Scotland Beautiful advocate that the proceeds should be linked explicitly to tackle litter noting that:

“For the regulations to be effective and have strong public support there must be a clear and demonstrable link between the money paid for bags by customers, the net proceeds distributed by retailers, and efforts to tackle litter and reduce its environmental impacts.”

Keep Scotland Beautiful further state that the funds should only be distributed to Scottish charities tackling litter:

“The Scottish Government should ensure, through amending the draft regulations or a robust voluntary agreement with the retail sector, that the net proceeds of the Bag Levy in Scotland are distributed by retailers only to Scottish charities tackling litter and its environmental impacts.”

The Chartered Institution of Wastes Management (CIWM) suggest that a framework beyond a voluntary agreement be established to support the distribution of the proceeds:

“The Draft Regulations are relatively silent in respect of disbursement of the net charges by the suppliers of single use carrier bags (SUCB) with the Scottish Government choosing to rely upon voluntary agreements still to be negotiated with the retail sector…… CIWM Scotland would suggest that the disbursement of the net proceeds of the charge would benefit from some framework beyond that of a voluntary agreement particularly to assist the small to medium sized business in facing the pressure of requests for allocation of the charge collected. The above having been said, CIWM Scotland recognises the potential benefits that new funding of up to £5 million per a year could have.”

The CIWM also set out their support for the net proceeds to be donated to good causes.

The Scottish Grocers Federation outlined their support for the proposal that retailers be able to donate the proceeds of the charge to a good cause of their choice and suggest that:

“This principle should be enshrined in the final regulations and should be embedded in the Scottish Voluntary Agreement.”

They also put forward their view that the definition of good causes in the Scottish Voluntary Agreement should be “flexible enough to include registered charities, schools, hospitals and informal community groups” and that “Small stores should be exempt from the requirement to keep and publish records.”
The proposed regulations do not specify how the proceeds are to be used, however the Scottish Government accompanying statement published alongside the regulations states that:

“We maintain our position that donation of net proceeds to good causes will be dealt with through a voluntary agreement with retailers rather than regulation. The overall purpose of the charge is to reduce carrier bag usage rather than generate funds for good causes. Also, the power to regulate is restricted to requiring the use of proceeds for the purpose of environmental protection or improvement (or similar purposes) and we would not want to cut across existing relationships between retailers and good causes.”

Draft Regulations – responses to the Rural Affairs, Climate Change Environment Committee

In their submission on the draft regulations Marks and Spencer highlight that they introduced a 5p charge on single use bags in their food section in 2008 and that to date the funds raised from the charge in Scotland have been used to:

“…fund a network of parks and gardens with Groundwork UK, as well as Big Beach Clean-up events and marine conservation programmes across Scotland1.”

Marks and Spencer also set out their support for a mandatory single use carrier bag charge and suggest that the money should be:

“…donated to charitable causes in Scotland in a way that is relevant to the context of carrier bag usage and transparent to the public. For this reason, we particularly welcome the proposed Scottish website where all distributors of carrier bags can publish their data and the recipients of donations.”

Marks and Spencer caution against the potential for a voluntary agreement that would enable companies to retain funds to spend themselves on zero waste activities in Scotland, noting that:

“Whilst clearly well meaning, in our view this measure would remove clarity and transparency, and require much more rigorous policing to reassure the public that their money is not being misused. Our preference would be for a more flexible system that allows retailers such as ourselves to determine where best the monies should be spent on charitable activities in Scotland (as we do now), including but not exclusive to, those focused on waste-related initiatives.”

1 Examples of M&S-funded charitable initiatives include working with Groundwork to reinvigorate a family play area at Gorgie City Farm in Edinburgh, and a project in South Perth, which involved transforming a disused piece of land into a community garden and allotment. We are also partnering with the Marine Conservation Society and the Canal and River Trust to fund a Big Beach Clean-up event at Fisherrow Sands in Musselburgh on 30th April 2014.
The Co-operative Group state that they have yet to finalise their plans for the distribution of net proceeds however they are

“…able to say that it has discussed those plans with Resource Efficient Scotland. Resource Efficient Scotland is happy that, to date, the proposals discussed align with the aims of the Scottish Government.”

The submission from Morrisons sets out their intention to donate the net proceeds of the carrier bags to good causes in Scotland and notes that these would “primarily” by good causes that “have a resonance with our Scottish colleagues and customers.” Asda have similarly stated that “the funds raised in Scotland will be spent on good causes in Scotland.” In their response to the Rural Affairs, Climate Change and Environment Committee the John Lewis Partnership set out their desire for prompt guidance on the causes that can be supported and note that they

“…wish to ensure our shops can take local decisions and support local causes. For example we would want our Waitrose shops to be able to donate the proceeds directly back to local communities through our existing Community Matters scheme. This will enable us to support local and smaller charities and a wide range of causes. We would, naturally, look for a proportion of the proceeds to go to environmental charities, making a key link for customers between the bag charge, resource saving and support for environmental causes.”

The John Lewis Partnership also advocate that retailers be encouraged to report total sales and profit annually.

The Scottish Retail Consortium (SRC) express disappointment that the Committee are focusing on how retailers propose to use the proceeds, stating that:

“Not only are the discussions with the Scottish Government and ZWS on the voluntary agreement just coming to a conclusion now, making it difficult for many of our members to definitely state how the proceeds of the charge will be directed, the use of the charge is outwith the scope of the regulations….The SRC has decided not to appear before the Committee as we don’t see the value in reporting on how the charge might be used by members when the parameters of the voluntary agreement are only just being finalised.”

The SRC do, however note that their members support the principle that the proceeds of the charge be “donated in Scotland to the benefit of local communities, charities and other worthwhile good causes…” and suggest that the donation should be “transparent, accountable and at the discretion of the retailer”. The SRC also call for a clear communication programme to make the public aware of the regulations.
Guidance for Retailers and the Carrier Bag Commitment

On 15th May 2014 Zero Waste Scotland published draft versions of the Guidance for Retailers on The Single Use Carrier Bags Charge (Scotland) Regulations 2014 and the Carrier Bag Commitment. The Carrier Bag Commitment is a voluntary agreement on the use of the net proceeds resulting from the charge. Signatories to the agreement will be required to fulfil the following two commitments:

“1. To donate the net proceeds from the charge to good causes, that may include environmental causes”, and

“2. Report on an annual basis, through a central reporting portal hosted by Zero Waste Scotland, information on the number of carrier bags distributed and the purpose to which proceeds of the charge have been applied.”

Net proceeds - operation in Wales and Northern Ireland

Wales

On October 1st 2011 the Welsh Government introduced a 5 pence charge on the supply of new single use carrier bags. All sellers that employ 10 or more staff and charge for single use carrier bags are required by law to keep an accurate record for every reporting year. The record must contain:

- the number of single use carrier bags charged for
- the gross (total) amount received from charging for single use carrier bags
- the gross (total) proceeds of the charge
- the net (final amount after deductions) proceeds of the charge
- a breakdown of the difference between the gross and net proceeds including the deduction of VAT and the deductions for “reasonable costs”; and
- what you have done with the net proceeds.

The Single Use Carrier Bag Charge (Wales) Regulations 2010 do not specify where the proceeds of the charge should go. However, the Welsh Government have stated that:

“The money raised is collected by the retailer and we want this to be passed on to good causes, preferably environmental good causes, here in Wales.”

This aspiration is reflected in a voluntary agreement developed by the Welsh Government on where the net proceeds go. This guiding principles set out in the agreement state that:
“The net proceeds are passed on to good causes.\textsuperscript{2} Where possible, the net proceeds will benefit Wales. The use of the net proceeds will provide additionality over and above any existing arrangements.”

\textit{The Waste (Wales) Measure 2010} gives Welsh Ministers the power create regulations which would impose duties on retailers on the destination of proceeds from the charge. The Welsh Government have reported that this power would only be used if voluntary arrangements with retailers do not work satisfactorily.

No single collation of the total proceeds raised for good causes has been produced. Annual reports (April 2012 - April 2013) produced by a number of prominent retailers covered by the scheme provide an idea of the proceeds raised, and the causes that have been supported:

- \textbf{Greggs}: £24,000 to the South East Wales Rivers Trust, £27,794.58 to the Greggs Foundation for donation to good causes in Wales
- \textbf{Morrisons}: £374,274 to Save the Children
- \textbf{Sainsbury’s}: £53,792.33 to support the Welsh Community Grant scheme.

Tesco currently donate the funds they receive from customers via the carrier bag charge to RSPB Cymru. Details of the projects supported by these funds are available \url{here}. According to the RSPB website

“Tesco customers raised over £1 million which has helped us fund projects to save threatened Welsh wildlife and bring people closer to nature.”

In response to a Freedom of Information request a list of those retailers signed up the voluntary code and the good causes that they each support was published by the Welsh Government. The note states that:

“We have had several discussions with retailers on the use of net proceeds. Some retailers have yet to decide who their funds will be passed to, although the BRC have confirmed that all their members will be passing on the net proceeds in line with our voluntary principles. This list will be updated as we receive more information.”

The note includes information confirmed by retailers on the where funds raised are allocated. Table 1 sets out some of the examples provided.

\begin{table}
\caption{Allocation of proceeds by retailers from single use carrier bag charging in Wales}
\end{table}

\textsuperscript{2} The agreement notes that “Good causes do not include organisations or activities that are party political in nature or those that facilitate or promote ideologies that are inconsistent with human rights principles.”
<table>
<thead>
<tr>
<th>Retailer</th>
<th>Fund allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Co-op</td>
<td>Local environmental projects</td>
</tr>
<tr>
<td>Waitrose</td>
<td>Local good causes voted for by customers</td>
</tr>
<tr>
<td>John Lewis</td>
<td>Keep Wales Tidy</td>
</tr>
<tr>
<td>Asda</td>
<td>Good causes local to each store – some are environmental but not necessarily all.</td>
</tr>
<tr>
<td>Tesco</td>
<td>RSPB Cymru</td>
</tr>
<tr>
<td>Morrisons</td>
<td>Save The Children for FAST (Families and Schools Together)</td>
</tr>
<tr>
<td>Sainsburys</td>
<td>Each store in Wales will choose a local charity</td>
</tr>
</tbody>
</table>

In October 2013 the Welsh Government launched a consultation on an [Environment Bill](#). The consultation includes the proposals for new regulations on the carrier bag levy to:

- enable Welsh Ministers, by regulations, to extend the scope of the minimum charge to other kinds of carrier bags (such as lighter bags for life) as well as single-use carrier bags
- enable Welsh Ministers, by regulations, to require retailers to apply the proceeds of the carrier bag charge to any good causes rather than to environmental good causes only.

### Northern Ireland

On 8<sup>th</sup> April 2013 Northern Ireland introduced a carrier bag levy for single use carrier bags requiring retailers to charge at least 5p for new single use carrier bags.

[The Single Use Carrier Bag Charge Regulations (Northern Ireland) 2013](#) requires retailers to:

- charge customers at least 5p for each new single use carrier bag
- pay the net proceeds of the levy to the Department of the Environment
- declare the number of single use carrier bags they have dispensed each quarter; and
- make the associated payment to the Department of the Environment within 28 days of the end of the quarter.

Retailers may charge more than 5p if they wish, however, only the proceeds of the 5p levy are payable to the Department of the Environment.
The regulations do not specify how the money is to be allocated beyond the requirement for the net proceeds to be paid to the Department of the Environment. The NI Government website states that

“The money raised will be used to help communities, charities, businesses, schools and voluntary organisations to deliver local projects to improve the environment for everyone. £1m in receipts from the levy will be used to enhance the NGO Challenge Fund 2014.”

Northern Ireland Environment Link (NIEL) is the administrator of the NGO Challenge Fund 2014. Examples of the projects funded are on the Northern Ireland Environment LINK website.

Dan Barlow
SPICe Research
13 May 2014

Note: Committee briefing papers are provided by SPICe for the use of Scottish Parliament committees and clerking staff. They provide focused information or respond to specific questions or areas of interest to committees and are not intended to offer comprehensive coverage of a subject area.
The Scottish Government's Wild Fisheries Review

Background

1. During scrutiny of the Scottish Government’s Aquaculture and Fisheries (Scotland) Bill in 2012/13, the Scottish Government announced its intention to establish a formal review of wild fisheries in Scotland. In its Stage 1 Report on the Bill, the Rural Affairs, Climate Change and Environment (RACCE) Committee made a number of recommendations about issues which such a wild fisheries review should include, and also stated the Committee’s intention to take an interest in the review and its outcomes.

2. In its Stage 1 report, the Committee recommended that the following issues should be included in the wild fisheries review—

- the management and governance of District Salmon Fishery Boards (DSFBs), including: support needed for smaller boards to comply with legal requirements; how boards are funded; and how DSFBs interact with other fishery interests;
- issues relating to coarse fisheries;
- issues relating to salmon netting; and
- how initiatives such as the Upper Dee Riparian Scheme can be rolled out across the country.

3. On 14 January 2014, the Minister for Environment and Climate Change wrote to the Committee to inform it of the launch of the Wild Fisheries Review, and the appointment of Andrew Thin (who took up his appointment in March 2014), the outgoing Chair of Scottish Natural Heritage, as the Chair of the review.

4. The Minister wrote again to the Committee on 27 February 2014 with information on the remit, scope and structure of the review, confirming that it would formally begin on 3 March 2014 and take around six months to conclude its work with a report to the Minister. This would put the timing of the report approximately at September 2014. The Minister states that he will then

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“consider any recommendations made and will consult on any subsequent proposals to implement a new management regime.”

5. The Scottish Government’s website\(^5\) states that the aims of the review are to—

- develop and promote a modern, evidence-based management system for wild fisheries fit for purpose in the 21st century and capable of responding to the changing environment; and

- manage, conserve and develop our wild fisheries to maximise the sustainable benefit of Scotland’s wild fish resources to the country as a whole and particularly to rural areas.

6. A more detailed remit and scope of the Review have been published on the Scottish Government’s website, along with some background to the review, and these have been reproduced in the **Annexe** to this paper.

7. The Chair is supported in the review by a review panel (comprising of Michelle Francis and Jane Hope) and a Technical Advisory Group, made up of representatives from Marine Scotland Science, Scottish Natural Heritage, the Scottish Environment Protection Agency and the Institute of Fisheries Management.

8. A formal call for written evidence\(^6\) was issued on 28 April 2014. The call for evidence identified four main themes/questions for the review to consider—

- Leadership and governance;
- Management and delivery
- Resourcing; and
- Cross-cutting issues.

### History of previous fisheries reviews

9. The report of the Salmon Strategy Task Force, published in 1997, recommended the replacement of DSFBs with 20 Area Fishery Boards. These would principally be responsible for salmon and sea trout fisheries, although the report said that giving these bodies responsibility for other species should be considered. The Task Force report reviewed previous work on this area. Proposals to replace DSFBs with larger area committees responsible for all species of fish date back to the Hunter Committee of 1965.

10. A Scottish Executive consultation ‘Protecting and promoting Scotland’s freshwater fish and fisheries’ launched in 2000 (Scottish Executive 2000) set out the issues surrounding freshwater fishing, and sought views on how they

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could be resolved. The then Scottish Executive published a Green Paper (Scottish Executive 2001) which listed 26 mostly non-legislative actions to resolve these problems. The Green Paper did envisage some legislative actions, including a review of the legislation, once it had been consolidated. It did not propose the wholesale replacement of DSFBs but did propose the establishment of Area Fisheries Management Committees at catchment level who would produce Area Fishery Management Plans. Where there was agreement DSFBs could combine and take on the role of these Committees.

11. The legislation was consolidated in the first session of the Parliament with the passing of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003\(^7\), which brought all the main domestic laws relating to salmon and freshwater fisheries into one place.

12. The then Scottish Executive established a Fisheries Forum in 2004 to allow exchange of information and discussion of topical issues and to aid the consultation process and decision making for any new legislation. The forum also had a steering group, made up of representatives of all the main angling and fisheries management bodies plus other public and private sectors bodies with aquatic/environmental interests. Proposals for a Draft Aquaculture and Freshwater Fisheries Bill were put forward by the Scottish Executive in 2005 and were based on the work of the forum. The consultation document said the structure favoured by the forum was a “unitary authority” model covering salmon, trout and coarse fish. However it went on to say that developing legislative proposals would take longer than the timescale available for the Bill. Thus the Aquaculture and Fisheries (Scotland) Act 2007\(^8\) did not make changes to the system for managing and administering salmon and freshwater fisheries in Scotland.


“Existing DSFBs do not have a mandate to consider all-species fish and fisheries management, although Trusts and Foundations do. In some parts of the country, where the Boards and Trusts agree to work together, all-species management is either being practised, or starting to emerge on a pilot scale. We believe this activity should be supported and extended, since it provides valuable guidelines for the future, and at the same time allows an evolutionary approach to what already exists in Scotland. The Tweed Commission does have statutory responsibility for salmon and freshwater fish species.”

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14. In terms of fisheries management structures, actions proposed in the framework included: continuing with a strategic review of the need for further amalgamation of DSFBs; continued collaboration between DSFBs and fisheries trusts; and the formation of DSFBs and trusts where none exist. Other proposals in the Framework formed the basis for the proposals on fisheries in the Aquaculture and Fisheries (Scotland) Act 2013.9

**RACCE Committee scrutiny**

15. As part of agreeing its work programme, on 2 April 2014, the RACCE Committee agreed to take evidence from the Chair and members of the review panel and then consider options for future scrutiny.

16. The Committee will therefore take evidence from the Chair of the review, Andrew Thin, and panel member Jane Hope, at its meeting on 21 May 2014. The Committee will then consider any further scrutiny as part of its work programme discussion at its meeting on 18 June 2014.

**Clerks/SPICE**

**Rural Affairs, Climate Change and Environment Committee**

**Annexe**

**Background, remit and scope of the Wild Fisheries Review**

**Why do the Review?**

Over the last 60 years there have been many reviews that have highlighted important issues that need to be addressed in the management of Scotland’s wild fisheries (salmon and freshwater fisheries). However, limited real change has been delivered and, as confirmed in an independent recent baseline report for the Scottish Government, the existing wild fisheries management system is not fit for purpose in the 21st century.

Scottish Ministers have made a commitment to support and protect our famous and valuable salmon and freshwater fisheries and to modernise the management structures. The Aquaculture and Fisheries (Scotland) Act 2013 was the first stage in delivering this commitment and it implements work that had already been prepared to update the legislative framework for salmon fisheries, and modernised governance arrangements. Ministers have committed to an independent review of the management of all of Scotland’s wild fisheries as the next stage in delivery of the manifesto commitment and to support further development of the sector.

The review will look forward, not backward. It will focus on the requirements of a modern, evidence-based fishery management system. It will not reassess how well the current system operates or how it might be amended – this is territory well covered by previous reviews. The review is expected to take into

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account appropriate reports and international experiences (notably Ireland, New Zealand and Canada). The review will seek to engage widely with relevant stakeholders, and the Scottish Government encourage people to engage with the review positively and in a co-operative spirit.

Remit

- To consider from first principles the challenges and opportunities facing Scotland’s wild fisheries (salmon and freshwater), the management system and funding required to meet those challenges and deliver those opportunities.

- To consider the balance of responsibility and accountability as regards the international commitments, obligations and domestic policy objectives associated with wild fisheries and their environment.

- To set out how Scotland’s natural fish and fisheries resources should be sustainably managed, conserved and developed in the context of Scotland’s international commitments, obligations and domestic policy objectives in the best national interest and in a way that is underpinned by evidence.

- To identify and map the essential components of a modern wild fisheries management system; one responsive to the changing and multi-factorial impacts and pressures on fish and fisheries.

- To consider the information required to make and implement evidence-based management decisions.

- To consider the skill set required to deliver any new management system.

Scope

Specifically, the review and subsequent report will consider how:

- A strategic and joined up approach can be created in order to preserve, protect and develop Scotland’s fisheries in a sustainable manner in the best interest of Scotland as a whole.

- Relevant data and research should be collected and shared to inform management decisions and who should have the lead responsibility for data collection, storage and research commissioning.

- All fisheries species focus and management can be achieved optimally.

- Fisheries management should be funded in a way that is both transparent and accountable.

- To manage non-compliance with wild fisheries legislation in a proportionate and consistent manner.
• The sustainable management of salmon netting activity could be taken forward in the future.

• Some countries supporting a similar range of species to Scotland manage their wild fisheries and what lessons can Scotland learn from international perspectives.

• Evidenced based management decisions should be implemented to ensure compliance with national and international obligations and legislative accountability.

• Appropriate skill sets required for fisheries management are developed and provide opportunities for continuous professional development.

• To create a better environment and increase the opportunity for all but especially young people to stimulate their interest in fishing and fisheries management.

• Appropriate interventions and actions, including broader policy, can overcome barriers, weaknesses or omissions in fostering productive working relationships between and across sectors.

• The review may further develop any objectives to enable its aims to be delivered and to advise Scottish Ministers on any aspects related to management of wild fisheries that merits their attention.