WELSH STATUTORY INSTRUMENTS

# 2011 No. 2184 (W.236)

# ENVIRONMENTAL PROTECTION, WALES

## The Single Use Carrier Bags Charge (Wales) (Amendment) Regulations 2011

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| *Made - - - -* | *2 September 2011* |
| *Laid before the National Assembly for Wales - -* | *7 September 2011* |
| *Coming into force - -* | *1 October 2011* |

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 77(2) and 90(3)(a) of, and paragraphs 1, 2, 4, 7, 9 and 10 of Schedule 6 to, the Climate Change Act 2008(**1**).

**Title, commencement, application and interpretation**

**1.**—(1) The title of these Regulations is the Single Use Carrier Bags Charge (Wales) (Amendment) Regulations 2011.

(2) These Regulations come into force on 1 October 2011 and apply in relation to Wales.

(3) In these Regulations "the 2010 Regulations" ("*Rheoliadau 2010*") means the Single Use Carrier Bags Charge (Wales) Regulations 2010(**2**).

**Amendment of the 2010 Regulations**

**2.**—(1) The 2010 Regulations are amended in accordance with regulations 3 to 8.

**Amendment of regulation 2 (interpretation)**

**3.**—(1) In regulation 2(1)—

(a) for the definition of "the charge" ("*y tâl*") substitute—

> ""the charge" ("*y tâl*") means the minimum consideration that must be paid by a customer by virtue of regulation 6(2);";

(b) in the appropriate places insert—

> "(i) "consideration" ("*cydnabyddiaeth*") includes any chargeable VAT;";

(**1**) 2008 c. 27; *see* section 77(3) of the Climate Change Act 2008 for the definition of "the relevant national authority". There are amendments to section 77 of, and Schedule 6 to, the Act which are not relevant to these Regulations.
(**2**) S.I 2010/2880 (W. 238.

"(ii) "VAT" ("*TAW*") has the meaning given in section 96 of the Value Added Tax Act 1994(**3**).".

**Amendment of regulation 6 (requirement to charge)**

**4.** For regulation 6 substitute—

"**Requirement to charge**

**6.**—(1) A seller must charge for every single use carrier bag supplied new—

(a) at the place in Wales where the goods are sold, for the purpose of enabling the goods to be taken away;

(b) for the purpose of enabling the goods to be delivered to persons in Wales.

This is subject to regulation 7.

(2) The amount that a seller must charge is such amount as ensures that the consideration paid by a customer for each single use carrier bag is not less than 5 pence.".

**Addition of regulation 7A (application of Part 3)**

**5.** In Part 3 (records and publication) before regulation 8 (record-keeping) insert—

"**Application of this Part**

**7A.**—(1) This Part applies to a seller in relation to any reporting year in which the seller meets the condition in paragraph (2).

(2) The condition is that on the first day of the reporting year the seller employs ten or more full time equivalent members of staff .".

**Substitution of regulation 8 (record-keeping)**

**6.** For regulation 8 substitute—

"**Record-keeping**

**8.**—(1) A seller must keep a record of the information specified in paragraph (3) for every reporting year.

(2) Records must be retained by a seller for a period of three years beginning on 31 May in the reporting year following that to which a record relates.

(3) The information is—

(a) the number of single use carrier bags supplied which attract the charge;

(b) the amount received by way of consideration for single use carrier bags which attract the charge;

(c) the amount received by way of the charge;

(d) the net proceeds of the charge(**4**);

(e) a breakdown of how the amount which represents the difference between the amount received by way of the charge and the net proceeds of the charge has been arrived at, including—

(**3**) 1994 c. 23; there are amendments to section 96 which are not relevant to these Regulations.
(**4**) For the meaning of "net proceeds of the charge" *see* paragraph 7(4) of Schedule 6 to the Climate Change Act 2008.

(i) the apportionment between any chargeable VAT and reasonable costs;

(ii) the apportionment between different heads of reasonable costs;

(f) the uses to which the net proceeds of the charge have been put.

(4) The following are the amounts specified for the purposes of the definition of "net proceeds of the charge" in paragraph 7(4) of Schedule 6 to the Climate Change Act 2008(**5**)—

(a) any amount in excess of the charge received by way of consideration for single use carrier bags which attract the charge;

(b) any amount of chargeable VAT received by way of the charge;

(c) the amount of any reasonable costs.

(5) In this regulation "reasonable costs" ("*costau rhesymol*") means—

(a) costs reasonably incurred by a seller to enable the seller to comply with these Regulations;

(b) costs reasonably incurred by a seller to enable the seller to communicate information about the charge to customers.

This is subject to paragraph (6).

(6) In relation to the first reporting year, "reasonable costs" includes costs reasonably incurred by a seller before the date on which these Regulations come into force —

(a) to enable the seller to comply with these Regulations;

(b) to enable the seller to communicate information about the charge to customers.".

**Amendment of regulation 13 (combination of penalties)**

**7.** For regulation 13(1) substitute—

"(1) An administrator may not serve a notice of intent in relation to a fixed monetary penalty on a seller in any of the following circumstances—

(a) where a discretionary requirement has been imposed on that seller in relation to the same breach;

(b) where the seller has discharged liability to a fixed monetary penalty in respect of the same breach by payment of a specified sum;

(c) where a fixed monetary penalty has previously been imposed in respect of the same act or omission.".

**Amendment of Schedule 1 (exemptions)**

**8.**—(1) In paragraph 1(1) of Schedule 1—

(a) before paragraph (a) insert—

"(za) bags used solely to contain one or more items of the following kinds—

(i) unpackaged food for human or animal consumption;

(ii) unpackaged loose seeds, bulbs, corms or rhizomes;

(iii) any unpackaged axe, knife, knife blade or razor blade;

(iv) unpackaged goods contaminated by soil;

(v) items from the categories specified in sub-paragraph (2);"

(**5**) 2008 c. 27.