Changes to legislation: *The Single Use Carrier Bags Charge Regulations (Northern Ireland) 2013 is up to date with all changes known to be in force on or before 16 February 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2013 No. 4

ENVIRONMENTAL PROTECTION

The Single Use Carrier Bags Charge Regulations (Northern Ireland) 2013

Made - - - - 15th January 2013

Coming into operation 8th April 2013

The Department of the Environment makes these Regulations in exercise of the powers conferred by sections 77(2) and 90(2)(b), 90(3)(a) and (b) of, and paragraphs 1, 2, 3(1)(a), 3(2), (3), (4) and 4 to 22 of Schedule 6 to, the Climate Change Act 2008 [F1].

F1 2008 c.27

PART 1

Introduction

Citation and commencement

1.—(1) These Regulations may be cited as the Single Use Carrier Bags Charge Regulations (Northern Ireland) 2013.

(2) These Regulations come into operation on 8th April 2013.

Interpretation

2.—(1) In these Regulations—

"the Administrator" means the Department of the Environment;

"the charge" means the full consideration received by a seller for **[**[F2]carrier bags**]** which attract the requirement to charge;

"consideration" includes any chargeable VAT;

"the Department" means the Department of the Environment;

"discretionary requirement" has the meaning given in paragraph 12(3) of Schedule 6 to the Climate Change Act 2008;

"enforcement costs recovery notice" has the meaning given in regulation 16(1);

"fixed monetary penalty" has the meaning given in paragraph 10(3) of Schedule 6 to the Climate Change Act 2008;

"functions" includes powers and duties;

"late payment penalty" means any increase in an amount payable—

(a) as a fixed monetary penalty, by virtue of paragraph 10 of Schedule 2;

(b) as a variable monetary penalty, by virtue of paragraph 9 of Schedule 3;

(c) as a non-compliance penalty, by virtue of paragraph 8 of Schedule 4;

"net proceeds of the charge" means the proceeds of the charge less—

(a) any element of the charge in excess of 5 pence;

(b) any amount of chargeable VAT in respect of the 5 pence charge.

"non-compliance penalty notice" has the meaning given in paragraph 5(4) of Schedule 4;

"non-monetary discretionary requirement" has the meaning given in paragraph 12(4) of Schedule 6 to the Climate Change Act 2008;

"publicity notice" has the meaning given in paragraph 19(2) of Schedule 6 to the Climate Change Act 2008;

"record" means the information specified in regulation 9(3);

"reporting year" means—

(a) the period starting on the date on which these Regulations come into operation and ending on 5 April 2014;

(b) thereafter, the period commencing 6 April in one year and ending on 5 April the following year; the first such period to commence 6 April 2014;

"specified sum" has the meaning given in paragraph 4(2) of Schedule 2;

"variable monetary penalty" has the meaning given by paragraph 12(4) of Schedule 6 to the Climate Change Act 2008;

"VAT" has the meaning given in section 96 of the Value Added Tax Act 1994 [F3].

(2) References to—

(a) a notice of intent in relation to a fixed monetary penalty, are references to a notice of intent served under paragraph 3(1) of Schedule 2;

(b) a final notice in relation to a fixed monetary penalty, are references to a final notice served under paragraph 6(5) of Schedule 2;

(c) a notice of intent in relation to a discretionary requirement, are references to a notice of intent served under paragraph 3(1) of Schedule 3;

(d) a final notice in relation to a discretionary requirement, are references to a final notice served under paragraph 5(6) of Schedule 3;

(e) a notice of intent in relation to a non-compliance penalty, are references to a notice of intent served under paragraph 3(1) of Schedule 4.

(3) References to **[**[F2]carrier bags **]** which attract the requirement to charge are references to those **[**[F2]carrier bags**]** to which regulation 6 applies.

F2 Words in Regulations (excl. regs. 1(1), 3) substituted (19.1.2015) by Carrier Bags Act (Northern Ireland) 2014 (c. 7), **s. 9(3)(b) (6)** (with s. 9(7))

F3 1994 c. 23; there are amendments to section 96 which are not relevant to these Regulations.

Meaning of "carrier bag"

[[F4]**3.** In these Regulations "carrier bag" means a bag of any material supplied or designed for the purpose of enabling goods to be taken away or delivered.**]**

F4 Reg. 3 substituted (19.1.2015) by Carrier Bags Act (Northern Ireland) 2014 (c. 7), **s. 9(2)**(6) (with s. 9(7))

Meaning of "seller"

4.—(1) Subject to paragraph (2) "seller" means a person who in the course of trade or business sells goods from a place in Northern Ireland.

(2) Where a person (A) sells goods in A's capacity as an officer or employee of another person (B), then for the purposes of these Regulations B is the seller in those circumstances, and not A.

Administrator

5.—(1) The Department shall administer the provision made by these Regulations.

(2) The Department may appoint as authorised officers such persons as it considers necessary to administer provision made by these Regulations and may terminate any appointment made under this paragraph.

PART 2

The Charge

Requirement to charge

6. Subject to regulation 7, a seller shall charge a customer at least 5 pence for every **[**[F5]carrier bag**]** supplied new **[**[F6]at a place where goods are sold**]** .

F5 Words in Regulations (excl. regs. 1(1), 3) substituted (19.1.2015) by Carrier Bags Act (Northern Ireland) 2014 (c. 7), **s. 9(3)(a) (6)** (with s. 9(7))
F6 Words in reg. 6 substituted (19.1.2015) by Carrier Bags Act (Northern Ireland) 2014 (c. 7), **s. 9(4)**(6) (with s. 9(7))

Exemption from the requirement to charge

7. Regulation 6 does not apply in relation to the supply of **[**[F2]carrier bags **]** of the kind described in Schedule 1.

F2 Words in Regulations (excl. regs. 1(1), 3) substituted (19.1.2015) by Carrier Bags Act (Northern Ireland) 2014 (c. 7), **s. 9(3)(b) (6)** (with s. 9(7))

Payment of net proceeds of the charge to the Department of the Environment

8.—(1) A seller shall pay to the Department the net proceeds of the charge for each relevant period within 28 days of the end of that period.

(2) Payment of the net proceeds of the charge shall not be received by the Department until the Department has cleared funds for the full amount.

(3) Any amount of the net proceeds due to the Department if unpaid may be recovered by the Department as a civil debt.

(4) In this regulation the relevant period is—

(a) the period starting on the date on which these Regulations come into operation and ending on 30th June 2013; and thereafter the three month period ending 30th September, 31st December, 31st March or 30th June in each reporting year; or

(b) such other period as the Department may determine.

PART 3

Records

Record-keeping

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

(2) Records kept in accordance with paragraph (1) shall be retained by a seller for the period of six years beginning on 31 May in the reporting year following that to which the record relates.

(3) The information is—

(a) the number of **[**F2carrier bags **]** supplied to customers which attract the requirement to charge;

(b) the total proceeds received for **[**F2carrier bags**]** supplied to customers which attract the requirement to charge;

(c) the amount received by way of the 5 pence element of the charge;

(d) any amount of chargeable VAT in respect of the 5 pence element of the charge;

(e) the net proceeds of the charge.

F2 Words in Regulations (excl. regs. 1(1), 3) substituted (19.1.2015) by Carrier Bags Act (Northern Ireland) 2014 (c. 7), **s. 9(3)(b) (6)** (with s. 9(7))

Availability of records

10.—(1) This regulation applies where the Administrator requests a seller in writing to supply a record for a reporting year.

(2) If the request is received during the retention period for the record in question, the seller shall provide a copy of that record to the Administrator within 28 days of receiving the written request.

(3) The retention period is the six year period for which any particular record shall be retained under regulation 9(2).

PART 4

Breaches

Breaches

11.—(1) It shall be a breach of these Regulations if, as a result of having failed to take all reasonable steps necessary to enable it to do so, a seller fails to comply with a requirement mentioned in paragraph (2).

(2) The requirements are to—

(a) charge in accordance with regulation 6;

(b) pay the net proceeds of the charge to the Department in accordance with regulation 8;

(c) keep records in accordance with regulation 9;

(d) retain records in accordance with regulation 9;

(e) supply records in accordance with regulation 10;

(3) It shall be a breach of these Regulations for a seller, without reasonable cause—

(a) to give false or misleading information to the Administrator;

(b) to otherwise obstruct or fail to assist the Administrator in the conduct of its functions under these Regulations.

PART 5

Civil Sanctions

Civil sanctions

12. The following Schedules have effect—

(a) Schedule 2, which makes provision for fixed monetary penalties;

(b) Schedule 3, which makes provision for discretionary requirements.

Combination of sanctions

13.—(1) The Administrator shall 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 the 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.

(2) The Administrator shall not serve a notice of intent in relation to a discretionary requirement on a seller in any of the following circumstances—

(a) where a fixed monetary penalty has been imposed on the 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;