

## The Single Use Carrier Bags Charges (England) Order 2015

<b>Lead department</b>	Department for the Environment, Food and Rural Affairs
<b>Summary of measure</b>	The Single Use Carrier Bags Charges (England) Order 2015 (the original Order) introduced a mandatory charge of five pence for each such bag sold by retailers with 250 employees or more.
<b>Submission type</b>	Post-implementation review (PIR)
<b>Review date</b>	By 5 October 2020
<b>Department recommendation</b>	Keep
<b>RPC reference</b>	RPC-DEFRA-5066(1)
<b>Opinion type</b>	Post-implementation review
<b>Date of issue</b>	27 May 2021

## RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Not fit for purpose</b>	<p>Overall, the PIR's level of evidence and analysis is limited and not proportionate to the scale of impact of the measure. It provides good evidence and analysis to support retaining the legislation in some form. However, the PIR does not address adequately amending the order, such as including smaller retailers and increasing the charge to 10 pence per bag (as has recently come into effect).</p> <p>The Department has explained that the PIR was delayed because of Covid-19; however, producing a PIR on a measure after it has been amended is clearly not satisfactory. The Department should take this opinion into account in planning and undertaking a PIR on the changes brought in through The Single Use Carrier Bags Charges (England) (Amendment) Order 2021 (the Amendment Order).</p>

<sup>1</sup> The RPC opinion rating is based on whether the evidence in the PIR is sufficiently robust to support the departmental recommendation, as set out in the [better regulation framework](#). The RPC rating will be fit for purpose or not fit for purpose.

## RPC summary

<b>Category</b>	<b>Quality</b>	<b>RPC comments</b>
Recommendation	<b>Red</b>	The PIR provides good evidence and analysis to support retaining the legislation in some form but does not adequately address the impacts of amending it, such as including smaller retailers and increasing the charge to 10 pence (as has recently come into effect).
Monitoring and implementation	<b>Weak</b>	The level of evidence and analysis is not proportionate to the level of impact of the measure. The PIR provides insufficient detail of consultation with stakeholders, in particular large retailers.
Evaluation	<b>Weak</b>	The Department should strengthen the PIR significantly in a number of areas, including addressing impacts on small and micro retailers of being excluded from the requirement; providing indications of the scale of impacts against expectations in the IA; and assessment of unanticipated consequences.

## Summary

The PIR was submitted for RPC scrutiny a few weeks before the Amendment Order extending the measure (to cover all businesses and increasing the charge to 10 pence per bag) came into effect. The Department has explained that the PIR, due to be completed by 5 October 2020 (five years after the measure came into force) was delayed because of Covid-19.

The RPC understands the potential impact of Covid-19 in delaying PIRs, but it is clearly not the right sequence for a PIR to be produced on the original measure after amendments to it have been implemented. Therefore, we are providing our opinion on the PIR and offering feedback to facilitate the Department producing a higher-quality PIR, at the appropriate time, in relation to the new amending legislation.

## Red-rated points

### Recommendation

The recommendation of the PIR is to ‘keep’ the measure. The PIR provides good evidence to support the conclusion that the measure has achieved its objectives and that it should be retained in some form (including survey evidence covering England, in particular, the Cardiff University study). However, it does not address whether the measure should be retained unchanged or amended. As noted above, the measure has now been amended to cover all businesses and the charge has been increased to 10 pence per bag. The PIR does not directly address the case for these changes; indeed, there is very little evidence presented relating to the original exclusion of small and micro retailers. The PIR does not provide proportionate evidence and analysis to support its recommendation. The Department will need to produce a further PIR on the new, amending legislation, due by October 2026, to provide such evidence and analysis.

## Monitoring and implementation

### Proportionality

The Department has provided a relatively light-touch PIR of this measure even though the impact assessment estimated it would have large impacts, both on business and society as a whole. For example, the PIR relies in some places on research carried out on an earlier measure implemented in Wales (or repeats what was anticipated in the IA), and the Department has apparently gathered limited further evidence on the impacts of this measure in England.

In our guidance to departments, we have previously set out indicative requirements for the level of evidence and analysis for PIRs of measures with different levels of

impact.<sup>2</sup> This measure falls clearly in the ‘high impact’ category (page 18 of the guidance). Overall, the PIR falls short of meeting these broad criteria, and the Department does not provide justification for its lighter-touch approach to the PIR. This will need to be addressed in the further PIR on the amending legislation.

#### Improvements considered and consultation with business

The PIR states that no other opportunities for reducing the burden on business were identified, without providing justification for that statement. The PIR should have set out what consultation the Department undertook with businesses to support this assessment.

The PIR notes that research has not been carried out in England to assess retailers’ perceptions of the 5p charge. The PIR should explain why the Department believes this approach is proportionate, given the significant impacts on retailers.

## Evaluation

#### Comparisons against the IA and indications of scale of impact

The PIR discusses briefly overall net impacts on consumers, government and business. The PIR also helpfully includes an annex with the list of assumptions in the original IA. To be fit for purpose, the PIR would need to provide at least some description of how accurate these assumptions were and the likely impact on the overall estimates of variations identified in costs and benefits after implementation, or explain why it is not possible or proportionate to do so. This information should cover the key assumptions that are most relevant to the delivery of the policy objectives and business, consumer, environmental and government impacts, rather than revisiting the whole original IA.

#### Impacts on large retailers

The PIR notes that the IA estimated there would be an annual net direct benefit to business of £148 million (2009 prices and 2010 base year). The PIR reports that the Department has no data for reported costs/benefits to business. This analysis is insufficient given the scale of expected impacts; the PIR must provide at least a description of the likely broad accuracy of the estimate in the IA or explain why this is not possible or proportionate. The PIR concludes that the size of the charitable contributions from the revenue of the charge suggests there is no net cost to business. It should support this conclusion by providing evidence as to the correlation between size of charitable contributions and business impacts.

The PIR notes that significant reduction in plastic bag usage also reduced costs from stocking, storage and transport of bags. However, it would be proportionate for the PIR to provide some assessment, or at least discussion, of the likely scale of such

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/800603/Final\\_proportionality\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800603/Final_proportionality_.pdf)

cost reductions, with comparison against assumptions behind the overall £148 million business benefit estimated in the IA.

### Impacts on small and micro businesses

This is an area of the PIR that needs to be strengthened significantly. To be fit for purpose, the PIR would need to address the impacts of excluding small and micro businesses from the measure on those businesses and on the achievement of the policy objectives. This is particularly important given that we understand some small retailer representative bodies, such as the *Association of Convenience Stores*, opposed the exclusion, and taking into account the very recent extension to include smaller retailers. The PIR should also present evidence on whether the impact of the 5p charge has affected the use of single use carrier bags (SUCBs) by smaller retailers.

### Unintended effects

The PIR states that no unintended consequences have been identified. For example, it states that substitution of other bags, such as ‘bags for life’, for SUCB was anticipated. To justify this sufficiently, the PIR would need to:

- provide comparison of the scale of actual impacts compared to expectations and describe the impact this has on overall costs and benefits. For example, it appears that bags for life have been re-used significantly fewer times than anticipated;
- address consequences that were clearly unanticipated, notably the impact of Covid-19. For example, although the IA refers to retailers being able to waive charges for SUCB it does not address concerns around the risks of spreading the virus through use of jute bags etc.;
- address whether it was anticipated that some large retailers would stop offering SUCB and describe the associated impacts; and
- consider the impact of innovation by retailers (e.g. of some online retailers refunding the cost of the bags if they are returned to the driver).

## **Other areas for improvement**

The PIR should be improved in a number of other areas and the Department should also take into account the comments below in planning and undertaking the PIR on the new, amending legislation.

## **Evaluation**

### Impact on consumers

The PIR usefully addresses financial impacts on consumers. However, it mainly focuses on impacts on consumers’ shopping behaviour and attitudes to the environment. The PIR would benefit significantly from presenting further information

on any detriment experienced (actual or perceived) by consumers, for example greater inconvenience. The PIR should also address evidence on whether retail prices for consumer food and consumer goods have decreased as a result of the 5p charge.

### International comparisons

Many countries have introduced charges or bans of lightweight plastic carrier bags in recent years. The PIR would benefit significantly from including a discussion of the impact of such policies, drawing out any relevant considerations for the UK.

### Environmental impacts

The assessment of environmental impacts should be improved as indicated below or sufficient justification provided for why this would not be proportionate:

- The PIR reports estimates for tonnes of CO<sub>2</sub> avoided by the measure. The PIR should address how these estimates compare against those anticipated in the IA.
- The PIR should also address the possible impact of substitution effects of expected increased use in bags for life and bin liners on CO<sub>2</sub> savings.
- The PIR states that the review “...*indicates that overall plastic usage would fall despite these substitution effects*” (section 8). The PIR would benefit from explaining this further, particularly in view of bags for life apparently being re-used less often than expected.
- The PIR states that the measure is “...*likely to have led to a reduction in harm to wildlife caused by ingestion of or entanglement in discarded plastic bags or remnants of them*” (section 9). The PIR should provide evidence to support this assertion, or explain why it is not proportionate to do so.

### Impact on charities

The PIR should address impacts on charitable organisations more fully and present any information provided by them to support the PIR.

### Impacts on the public sector

The assessment of impacts on the public sector should be strengthened, for example, by providing evidence from local authorities, regarding:

- the claimed likely reduction in litter collection and waste management costs (section 9); and
- comparison of actual enforcement costs against the reported estimate of £0.5 million per year in the IA.

### Clarification

The PIR reports in several places data starting from 2016-17, on the basis that data in 2015-16 is not directly comparable. The PIR would benefit from explaining further why data are not presented for the year before the measure was introduced in

October 2015 and why figures for 2015-16 are not presented, broken down into pre and post-implementation periods.

## **Regulatory Policy Committee**

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc).