

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith /
Climate Change, Environment and Infrastructure Committee
Bil drafft Diogelu'r Amgylchedd (Cynhyrchion Plastig Untro) (Cymru)/
Draft Environmental Protection (Single-use Plastic Products)(Wales) Bill
SUP_25
Ymateb gan / Evidence from SEDA

The Environmental Protection (Single-use Plastic Products) (Wales) Bill

Whether a Bill is needed to introduce a ban on commonly littered single-use plastic items

The Foodservice Packaging Association supports all initiatives to reduce littering however many of the items included in the list of those to be banned do not feature in litter survey data while those most featured are not included. No explanation was given for this. As an example, cigarette / e - cigarette related litter according to Keep Britain account for over half of litter by count.

If further bans are to be introduced then we rather this is implemented in the form of a bill following consultation rather than providing powers to Ministers to introduce and modify current bans without consultation in the form of secondary legislation.

The advantages and disadvantages of using a Bill rather than secondary legislation to introduce a ban

Each item is unique and if banned results in a unique set of implication for retailers and for consumers. A bill (primary legislation) brings with it a consultation process. This process is needed to avoid:

- Safety and hygiene consequences as a result of an item such as polystyrene lids for hot drinks being banned
- Economic issues particularly among independent retailers and foodservice operators who struggle to afford more expensive alternatives
- Environmental damage resulting from alternatives with higher carbon footprints to the items banned
- The potential to increase litter

This also applies to amending items currently banned which may take place as a result of political pressures rather than taking into account evidence and science.

We see no disadvantages of using a Bill to bring a ban into being and feel the process provides a safety net to reduce unintended consequences.

However, the views expressed during the consultation process must be given appropriate consideration; in any event an EIA / LCA must accompany the draft Bill and the proposed policy measures must be justified from an environmental, economic and social point of view

Whether the provisions of the draft Bill will deliver the policy intention

This bill we contribute nothing towards the policy intention of reducing litter and will result in hardship for many retailers. Those who litter will not change their behaviour as a consequence of a change in material. The Bill simply replaces one type of litter with another. The policy will only be achieved by enforcement and issuing fixed penalty notices to those who litter and to car owners from whose vehicles litter is thrown.

Whether there are any potential barriers to the implementation of the draft Bill's provisions (including the United Kingdom Internal Market Act 2020)

We believe that packaging legislation should be as much as possible harmonised across the UK – it does not make sense to fragment the market imposing different rules, bans, charges, without coordination among the different nations.

We are concerned that adequate time to use up stocks will not be provided as has been the case in Scotland. A further six months from the bill coming onto force should be given to use up stocks including exporting stocks to England and other countries where banned items are legally traded. There is a prospect of retailers being fined because the powers to enter premises and homes might

reveal leftover stock which hasn't been scrapped and isn't even being used. This will include banned items left in store cupboards and in warehouses that hasn't been scrapped.

As a matter of principle, no packaging should be scrapped as this represents a resource waste. It should also be possible to donate banned packaging to good causes during the six-month period we propose to use up stocks. There is much stock in Scotland that has had to be scrapped even though ordering of banned items in the period prior to the ban coming into force was reduced hugely. Retailers and distributors may each be left with small amounts but added together this represents significant amounts of packaging that can be put to good use.

It should not be assumed that all retailers will be aware of the ban. This will depend on publicity provided by the Welsh Government. Not all retailers are members of trade associations providing them with regular information and nor, do we suspect, they look at government websites. Guidance notes should be provided in a number of languages to reflect those foodservice operators who did not speak English or do not do so to the level required to understand the details of the ban and the consequences for not abiding by it.

We agree with the objective of the UK Internal Market Act to enable the four nations to trade without barriers. Seeking exemptions even when other nations are developing similar policies represents a major challenge to the IMA and we fear further exemptions will be made making it difficult to trade freely with all four nations. We already have businesses based in England withdrawing the sale of some of their lines from Scotland. We are concerned a series of exemptions will result in the IMA being withdrawn.

Whether the powers in the draft Bill for Welsh Ministers to make subordinate legislation are appropriate

The consequences of making subordinate legislation without the requirement of evidence will have consequences and may create confusion. We have already witnessed confusion over the definition of polystyrene and are grateful to the Welsh government for deferring to us on this. Many plastics are complex and defining one incorrectly can lead to items not considered for banning from being banned by accident.

Whether there are any unintended consequences arising from the draft Bill

Bill numbers:

1: definitions – factually wrong to include coatings/linings among SU plastic products – this is not in line with EU SUPD (whose art 3 does not mention coatings, only reference to main structural components)

- ✓ Definitions (art.1.2): A “plastic product” is a product—
 - (a) of which all or any of the main structural components are made wholly or partly of plastic,
 - (b) that has a lining or coating made wholly or partly of plastic

This definition goes beyond the SUPD Directive, which does not explicitly include paper cups with coatings and linings among “SU plastic products”

3: There is no mandated requirement for Ministers to seek expert advice when adding to or removing a product from column 1 of table 1. Nor the need to justify those through Impact Assessments, EIA/LCAs. This should be mandatory and should happen only with proper parliamentary scrutiny.

4.2: Requires Ministers to set out information regarding their consideration however no reference is made to seeking expert advice. In the consultation leading to this Bill, it was clear that Welsh Government's knowledge of key stakeholders is very incomplete. This list needs to be reviewed and brought up to date.

A single change of wording in a paragraph could be very significant. What if the Minister has misinterpreted information or is simply wrong? There is no channel to correct this judgement prior to amendments being made. This is especially of concern regarding plastics which are complex and for which there is more than one definition.

In essence, through this article the Minister would have the power to ban other types of cups and lids (in addition to PS lids), without any form of Parliamentary scrutiny nor the need to consider any evidence.

5: Requires reference to left over banned packaging in store rooms and warehouses would not be deemed an offence provided it is not being used or traded. A six months period from the date the Bill comes into force should be provided to use up stocks from warehouses and store rooms of items purchased before the bans come into force. This clause should be added to section 5 or section 22.

9, 10, 11, 12: Power of entry to premises. Dialogue with inspectors should only take place with premises managers and above. We are concerned in the absence of the latter inspectors will be confronting very young, inexperienced people for whom such confrontation could be upsetting. The Bill should make clear premises must be occupied by at least one adult (over 18) at the time entry is made.

A large number of takeaways and restaurants are in premises where the family operating the business live above the business. In instances where accommodation does not have a separate entrance the Bill should make clear that entering and inspecting the retail premises does not allow inspectors to enter the accommodation part of the premises without a warrant and then only to do so if an adult occupant is present.

22: A fourth section to be added allowing for a period of 6 months to use up stocks purchased prior to the ban coming into force or if not added to this section, then added to section 5.

Table 1:

As a general point it would be clearer to define items and exemptions in line with EU Single Use Plastics Directive (SUPD - June 2019)

Lids: An unintended consequence is the lack of alternatives available in bulk to a PS lid for hot drinks. This will result in hot drinks being served without PS lids designed to mould with the cup and provide a perfect seal. Some alternatives will not provide a perfect seal for hot items and therefore present health and safety issues when consumed on the go.

A ban on lids will result in alternative moulded fibre lids being sourced from outside the UK if UK industry is not given sufficient time to develop and install capacity for fibre-based lids. There is currently no UK manufacturer of moulded fibre lids. The importation of low cost lids from Asia could result in local manufacturers being priced out of the market. The importation of lids from Asia will result in potentially higher CO2 emissions.

Seda UK employs 385 people including 40 people in the manufacture of lids in Blackwood, an economically deprived area of South Wales. We have developed an alternative recyclable plastic lid for cold drink lids which uses rPET a widely recycled material. However, this is not suitable for hot drink lids where PS is used. We have developed alternative paper-based lids trademarked as EcoFit lids (brief presentation attached). These lids are fully recyclable and consume significantly less energy and water than moulded fibre lids.

Straws: the wording in the exemptions places an onus on serving teams to decide if a customer is deserving of a plastic straw and determining if they have a disability. This is indicated in the use of the term 'need' in exemption 3 for straws. We suggest 'need' is replaced by 'want' and that it is made clear that anyone may request a plastic straw and that a plastic straw may be presented to them without any reference to medical need.

This will eliminate potential verbal abuse of serving staff. Plastic straws not to be on public display.

Plates: An unintended consequence is that workplaces providing meals after hours for their staff will not be able to do so. These meals are vended on plates and are reheated in microwaves. No other material will work in this context while employers are duty bound to supply their after-hours staff with a hot meal. This is especially the case in satellite offices and facilities without catering facilities and are separate from the main premises where the business's catering facility is based.

PS takeaway food containers: we assume PS containers that are pre-packed and sealed in store and intended to be consumed at home may continue to be used. These containers are used for deli items, salads and for sweets and cakes such as those sold from Asian and Mediterranean food premises. In the event they are not pre-packed but are sealed in store with the intention of being consumed at home then we take it that they are also excluded.

The financial implications of the draft Bill (including for businesses and consumers).

The financial implications are considerable especially for independent takeaways and restaurants who are being forced to purchase more expensive packaging. These businesses are currently operating with low levels of profitability and many support whole families. Faced with many other cost increases such as rapidly rising food costs and rents along with the costs of complying with other new legislation these businesses are already struggling to survive. The difficult financial plight facing smaller operators threatening their survival has been very effectively set out by the British Take Away Campaign - <https://medium.com/@britishtakeawaycampaign/750-takeaway-owners-call-for-urgent-government-support-13658676e279>

Consumers particularly those on lower incomes will be faced with higher costs assuming retailers are able to pass on increased packaging costs.

We note that several good arguments were already made available to the Welsh Govt during the Aug 2020 consultation referred to in the text below and the draft Bill does not seem to have given them appropriate consideration. For instance:

On EPS cups:

p. 7 of the Summary of the consultation - Expanded/Extruded Polystyrene food containers and cups: Respondents from the manufacturing sector highlighted a recent increase in demand for single use plastic products in healthcare settings as the result of the COVID-19 pandemic. Several respondents made specific reference to the increased usage of food and drink containers made of expanded polystyrene (EPS) in the NHS and the potential additional costs alternative materials would incur for this sector if these items were banned.

Concerns were also raised on whether alternative materials could pose a risk to food or consumer safety and there was a suggestion further research was needed in this area. This included consideration of the thermal and insulation properties of EPS (which can prevent injury from hot liquid) and its relative cheap cost when compared with alternative materials. The latter was raised in relation to the potential financial impact on smaller, independent food businesses or their customers.

On the need to take decisions based on LCAs and scientific evidence :

p. 6 - A number of respondents, including those in the manufacturing sectors, academia, environmental NGOs and the government sector, highlighted the need to support such action with life cycle analysis (LCA) studies. This was to ensure any alternatives did not have a greater impact on the environment than plastic

p. 10 - A number of responses from the manufacturing sector raised concerns over the potential environmental impacts of alternative materials if the appropriate life cycle analysis (LCA) studies had not been undertaken. It was felt full Environmental Impact Assessments (EIA) and LCAs were needed before alternatives could be recommended for wider production.

This is to support the view that no powers should be granted to Ministers to amend the legislation without considering scientific evidence