

# Environmental Protection (Single-use Plastic Products) (Wales) Bill Bill Summary

September 2022



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**Welsh Parliament**  
**Tŷ Hywel**  
**Cardiff Bay**  
**CF99 1SN**

Tel: **0300 200 6574**

Email: **Lorna.Scurlock@senedd.wales**

Twitter: **@SeneddResearch**

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# **Environmental Protection (Single-use Plastic Products) (Wales) Bill**

## Bill Summary

September 2022

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**Author:**

Chloe Corbyn and Lorna Scurlock



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## 1. Introduction

On 20 September 2022, the Member in Charge of the Bill, Minister for Climate Change Julie James MS (‘the Minister’), introduced **The Environmental Protection (Single-use Plastic Products) (Wales) Bill** (‘the Bill’) to the Senedd.

The Bill will make it an offence for a person to supply or offer to supply (including for free) certain commonly littered and unnecessary single-use plastic products listed in the schedule in the Bill, to a consumer in Wales.

The Welsh Government **consulted on proposals** to ban nine single-use plastic products between 30 July and 20 October 2020. The summary of responses was published in August 2022.

In his July 2022 **legislative statement**, the First Minister outlined the Welsh Government’s intention to bring forward a Bill early in the autumn term. He said:

This will meet our key programme for government commitment in this area. But, in addition, the Bill will also support our ongoing legal challenge to the United Kingdom Internal Market Act 2020. In the current litigation, brought by the Counsel General, the court has indicated it would find it helpful to consider a practical example, in the form of a piece of Senedd legislation, against which it can test the issues under consideration. This Bill will provide that practical example, and in that context we will be seeking the agreement of Business Committee to expedite the scrutiny of the Senedd on this Bill.

There has been no formal consultation on a draft Bill. The **Explanatory Memorandum** (EM) accompanying the Bill states provisions included within it align to principles set out in the July 2020 consultation. The specific proposals have been extended and refined, in particular inclusion of polystyrene lids for cups (as opposed to just lids for polystyrene) and the addition of single-use plastic carrier bags.

The EM states these changes have been shared with relevant stakeholders and groups to provide input. Given the volume of consultation responses and timescales for delivering the legislation, the Welsh Government considered it more appropriate and efficient to take this approach, rather than publish a draft Bill for full consultation.

This briefing outlines the intended effect of the Bill and a summary of its provisions. It also includes stakeholder views from the summary of consultation responses.

## 2. Background

### 2.1. The scale of the issue

Of the **five million tonnes of plastic** estimated to be used each year, **three-quarters** become waste. **Two million tonnes** of this are plastic packaging, including **almost eight billion single-use plastic bottles**.

Single-use plastic items are the **most dominant source of litter** in our oceans, **injuring and killing fish, seabirds and marine mammals**.

Studies in Wales suggest single-use plastic litter is prevalent in our local environment. Recent Welsh Government compositional analysis of litter found plastic items in 40% (by item count) of the total sample analysed. Welsh beach and street cleanliness surveys have confirmed the presence of many of the items found by **2018 European Commission research**. Keep Wales Tidy found fast food litter **on 20% of surveyed Welsh streets**, and 75% of all litter collected during the Marine Conservation Society's **2021 Great British Beach Clean**, was plastic or polystyrene.

### 2.2. Welsh Government policy

In March 2021, the Welsh Government published its circular economy plan **Beyond Recycling**. This reaffirms the commitment for Wales to be zero waste by 2050, meaning all waste produced is re-used or recycled as a resource, without landfill or energy recovery. It contains the following key targets:

- By 2025: 26% reduction in waste; zero waste to landfill; 50% reduction in avoidable food waste; and 70% recycling.
- By 2030: 33% reduction in waste; and 60% reduction in avoidable food waste.
- By 2050: One planet resource use; zero waste; and net zero carbon.

On single-use plastic the plan says:

We will phase out unnecessary single-use items, especially plastic. We will send zero plastic to landfill and progressively reduce the amount sent to energy recovery. We will achieve this with game-changing reforms such as an Extended Producer Responsibility Scheme for packaging, a Deposit Return Scheme for drinks containers and by applying bans or restrictions on unnecessary single-use items.

More information on Extended Producer Responsibility (EPR) and Deposit Return Scheme (DRS) proposals can be found in our **recent article**.

## 2.3. Welsh Government research

In 2019 the Welsh Government **commissioned research** to help understand the potential impacts of banning certain single-use plastic items. The research estimated volumes of each product being sold and examined the availability and cost of non-plastic alternatives. The study used this information, alongside findings about whether or not any plastic or alternative items were being manufactured in Wales, to estimate potential economic impacts of the proposals on manufacturers and businesses in Wales.

The research concluded there were potential financial costs for plastics manufacturers if they chose to produce the same product using different materials. There was also a potential small financial cost to the hospitality sector when purchasing non-plastic alternative stock, which were found to be slightly more expensive. It suggested consumers may therefore be required to pay a small amount extra for some food or drink products consumed “on-the-go” if retailers chose not to absorb these costs. However, the study found the wider environmental and social benefits from reduced littering outweighed these costs.

The study identified a limited number of businesses manufacturing relevant single-use plastic items in Wales. It also identified potential economic benefits for Wales with increases in the sale of alternative products, especially if Welsh manufacturers responded to demand for these.

## 2.4. Welsh Government consultation

In July 2020, the Welsh Government launched its consultation on banning nine single-use plastic items. The consultation proposed introducing **secondary legislation** to ban businesses from providing certain single-use plastic items to end users (consumers) in Wales, irrespective of whether those businesses intend to charge for those items.

The proposed items were aligned with those included in **Article 5 of Directive (EU) 2019/904**, the EU’s Single-use Plastic Directive:

- Item 1 – plastic stemmed cotton buds;
- Item 2 – cutlery (including knives, forks, spoons, sporks and chopsticks);
- Item 3 – plates (including trays, platters, bowls and laminated paper plates);
- Item 4 – beverage stirrers;
- Item 5 – straws;

- Item 6 – sticks for balloons;
- Item 7 – food containers made of expanded polystyrene;
- Item 8 – cups for beverages made of expanded polystyrene; and
- Item 9 – oxo-degradable products (plastic products which break down by oxidation into micro-fragments). Examples include carrier bags, agricultural mulch films, and certain plastic bottles.

## 2.5. Approaches taken elsewhere in the UK

### England

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Following a consultation in October 2018 on proposals to ban the distribution and/or sale of plastic straws, plastic stemmed cotton buds and plastic drink stirrers in England, the UK Government introduced ***The Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020***, which came into force in April 2020.

In November 2021, the UK Government **consulted** on proposals to introduce bans for single-use cutlery, plates, balloon sticks, expanded and extruded polystyrene cups, beverage containers and food containers. A call for evidence was also launched, seeking views on how to move away from single-use products in relation to wet wipes, tobacco filters, sachets and single-use cups.

### Scotland

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In October 2019, the Scottish Government introduced ***The Environmental Protection (Cotton Buds) (Scotland) Regulations 2019*** to ban the sale and manufacture of single-use cotton buds in Scotland.

Following a consultation on proposals to ban the sale and manufacture of single-use straws, stirrers, plates, cutlery, expanded polystyrene food and drinks containers, the Scottish Government introduced ***The Environmental Protection (Single-use Plastic Products) (Scotland) Regulations 2021***. This came into force in June 2022.

### Northern Ireland

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On 14 January 2022, the Department of Agriculture, Environment and Rural Affairs' **eight week consultation** on the reduction of single-use beverage cups and food containers ended. Progress is pending.

## 2.6. Implications of the Internal Market Act

The **UK Internal Market Act 2020** ('the Act') introduces uncertainty about whether devolved administrations are able to introduce bans on products permitted to be sold in other parts of the UK.

The Act sets new 'market access principles', which presumes that (in general) goods, services and professional qualifications that can be sold or recognised in one part of the UK should be able to be sold or recognised in any other part, regardless of what the law in that other part of the UK says.

Our recent article, '**The UK Internal Market Act 2020: what difference is it making?**' looks at the principles in more detail.

Sections 10 and 18 of the Act allow the UK Government to make regulations to create exclusions from the principles. Following a request by the Scottish Government, in January 2022 it was confirmed that the **UK Government will exclude the products covered by the Scottish Government's ban.**

**The United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022** remove the restriction that the Act would have on a specific list of single-use plastics. However, the Welsh Government Bill includes products or items that are not included in this list, namely carrier bags (with some exceptions) and all products made of oxo-degradable plastic. Both restrictions would not be covered by the exclusion to the Act and could therefore continue to be supplied in Wales if manufactured in, or imported into, other parts of the UK.

The **First Minister said** the Welsh single-use plastic legislation will provide a "practical example" to support the Welsh Government's ongoing legal challenge to the Act.

### 3. The purpose and intended effect of the Bill

The Bill proposes to ban or restrict the supply to consumers of several commonly littered and unnecessary single-use plastic products in Wales. The Welsh Government says the legislation will help accelerate the shift in consumer behaviour away from single-use products towards greater re-use, and will encourage businesses in Wales to lead the way in developing more sustainable alternatives. Its objective is outlined in the EM:

This Bill will support action to tackle the climate and nature emergencies. It will also contribute to our long-term ambitions of phasing out unnecessary single-use products, especially plastic, and sending zero plastic to landfill. Whilst we recognise some uses of disposable plastic are essential, such as those used in medical settings, we want to see a greater shift to more sustainable reusable products. Where single-use products are needed, they should be designed in a way which minimises impacts on the environment.

The Bill seeks to make it an offence for a person to supply or offer to supply (including for free), the following “commonly littered and unnecessary” disposable single-use plastic products to a consumer in Wales:

- Plates;
- Cutlery;
- Drinks stirrers;
- Drinking straws (including attached straws);
- Cups made of polystyrene;
- Takeaway food containers made of polystyrene;
- Cup and takeaway food container lids made of polystyrene;
- Plastic-stemmed cotton buds;
- Sticks for balloons;
- Oxo-degradable products; and
- Plastic single-use carrier bags (SUCBs).

It also proposes:

That the above offence is a **summary offence** and so is triable in the Magistrates’ Court. If a person is found guilty of the offence, the Court may impose an unlimited fine.

A **regulation making power**, to enable Welsh Ministers to add or remove a single-use plastic product to the list of products subject to the offence of supply (or offer of supply).

A requirement on the Welsh Ministers to **report** under section 79(2) of the Government of Wales Act 2006 on the consideration they have given to whether to exercise the regulation making power:

- to add further products to the list of prohibited single-use plastic products in Schedule 1 of the Bill that are subject to the offence of supply (or offer to supply); and
- to make any proposed amendment to the exemptions listed in Schedule 1 to the Bill.

To provide authorised local authority officers with powers of **entry, investigation** and to make **test purchases** to investigate whether an offence has been committed.

To make it an **offence to intentionally obstruct** an authorised officer of a local authority who is exercising their enforcement functions under the Bill.

A power to enable regulations to be made by the Welsh Ministers for **civil sanctions** to be made in respect of criminal offences created by the Bill.

## 4. Summary of the Bill’s provisions

### 4.1. Prohibition on the supply of certain single-use plastic products

**Section 1** defines the key concepts of “single-use”, “plastic product” and “plastic”.

A “plastic product” is a product of which all or any of the main structural components are made wholly or partly of plastic, or has a lining or coating made wholly or partly of plastic.

“Single-use” in relation to a plastic product means a product not designed or manufactured to be used for the purpose for which it was designed or manufactured more than once (or on more than one occasion) before being disposed of. This section also clarifies that it is only carrier bags made from plastic film no greater than 49 microns in thickness that are considered to be single-use carrier bags for the purpose of the Bill.

“Plastic” means a material consisting of a polymer, and includes material consisting of a polymer with additives or which has other substances added to it.

**Section 2** outlines prohibited single-use plastic items, referring to the table in paragraph 1 of the Bill’s schedule. A product is prohibited if it is listed in column 1 of the table and there is no exemption in column 2.

| Product   | Exemption  |
|---|--|
| <i>Products for consumption of food and drink</i> |  |
| Cups  | A cup that is not made of expanded or foamed extruded polystyrene. |
| Cutlery   |  |
| Drink stirrers                                    | A lid that is not made from polystyrene                            |

|        |   |
|--------|---|
| Straws | <p>Exemption 1</p> <p>In respect of the sale of a straw by person (“P”) where-</p> <ul style="list-style-type: none"><li>a. P is a person lawfully conducting, or involved in lawfully conducting, a retail pharmacy business,</li><li>b. where P is not a pharmacist, the individual selling the straw on behalf of P is a pharmacist or an individual acting under the supervision of a pharmacist, and</li><li>c. the person to whom P supplies the straw declares to P they need the straw, or a person to whom they will give the straw needs the straw, for health or disability reasons.</li></ul> |
|        | <p>Exemption 2</p> <p>In respect of the provision of a straw free of charge by a person (“P”) where the person to whom P supplies the straw (“A”) –</p> <ul style="list-style-type: none"><li>a. is in P’s care, and</li><li>b. P reasonably believes that A needs the straw for health or disability reasons.</li></ul>  |
|        | <p>Exemption 3</p> <p>In respect of the provision of a straw free of charge by a person (“P”) where the person to whom P supplies the straw declares to P that they need the straw, or another person to whom they will give the straw needs the straw for health or disability reasons.</p>  |

|                          |   |
|--------------------------|---|
|                          | <p>Exemption 4</p> <p>A straw that is supplies for a purpose connected to the provision of medical care or treatment.</p>   |
| Plates                   |   |
| Takeaway food containers | <p>A takeaway food container that is not made of expanded or foamed extruded polystyrene.</p>   |
| <b>Other products</b>    |   |
| Balloon sticks           |   |
| Carrier bags             | <p>Exemption 1</p> <p>A carrier bag that –</p> <ul style="list-style-type: none"> <li>a. has maximum dimensions of 125mm (height) x 125mm (width),</li> <li>b. does not have a gusset, and</li> <li>c. does not have handles.</li> </ul> <p>Exemption 2</p> <p>A carrier bag of a size commensurate to the size or nature of the items to be carried, supplied for the purpose of carrying items of the following description –</p> <ul style="list-style-type: none"> <li>a. raw fish, meat or poultry (including raw fish, meat or poultry products) for human or animal consumption (whether or not the item is packages);</li> <li>b. any other food for human or animal consumption that is unpackaged;</li> </ul> |

|             |   |
|-------------|---|
|             | <ul style="list-style-type: none"> <li>c. food for human or animal consumption (to the extent the item does not fall within paragraph a or b provided free of charge;</li> <li>d. medicinal products or listed appliances supplied in accordance with a prescription issued by a health professional;</li> <li>e. pharmacy medicine (where it is not supplied in accordance with a prescription issued by a health professional);</li> <li>f. unpackaged seeds, bulbs, corms or rhizomes;</li> <li>g. unpackaged goods contaminated by soil;</li> <li>h. unpackaged blades or bladed articles;</li> <li>i. unpackaged items made of paper;</li> <li>j. personal hygiene products provided free of charge;</li> <li>k. live aquatic creatures in water.</li> </ul> <p>Exemption 3</p> <p>A carrier bag that is supplied for the purpose of carrying alcohol or tobacco in an area designated as a security restricted area under section 11A of the Aviation Security Act 1982 (c.36).</p> |
| Cotton buds |   |

*Products made of oxo-degradable plastic*

Any product made of oxo-degradable\* plastic, whether or not –

that product appears elsewhere in this table, and

the particular type of the product, or the purpose for which that product (or particular type of product) is supplied would otherwise be exempted by way of an entry in column 2.

\* “Oxo-degradation” is defined by CEN (the European Standards Authority) in TR15351 as “degradation identified as resulting from oxidative cleavage of macromolecules.” This describes ordinary plastics, which degrade by oxidation under the influence of light and heat in the open environment and create microplastics, but do not become biodegradable except over a very long period of time.

**Section 3** grants the Welsh Ministers regulation making powers to amend the list of prohibited single-use plastics by adding, removing or amending a product from column 1, an exemption from column 2, or a definition.

**Section 4** details duties relating to sustainable development and reporting in respect of the powers to amend. This includes a requirement for the Welsh Ministers, when deciding whether to make the amendments in section 3, to take into consideration their duty to promote and carry out sustainable development. In the report, which the Welsh Ministers are required to publish under section 79 (2) of the Government of Wales Act 2006, they must explain their consideration of whether to exercise the power in section 3. The Bill specifically mentions adding products to column 1, including but not limited to **wet wipes**, and to remove or amend an exemption from column 2, including but not limited to exemptions in respect of cups, takeaway food containers and lids that are **not made from polystyrene**.

**4.2. Offence**

**Section 5 creates** the offence of supplying a prohibited single-use plastic product. It lists descriptions of a person not permitted to supply a prohibited single-use

plastic product to a consumer in Wales (e.g. corporate bodies/sole traders). It also describes the meaning of supply – in this case selling, providing free of charge, or offering to sell or provide free of charge. It includes a description of “accountable” persons, for example employees or agents.

**Section 6 provides that** a person guilty of an offence under Section 5 is liable on summary conviction to a fine.

### 4.3. Enforcement

**Section 7** relates to enforcement by local authorities. Local authorities will have powers to investigate complaints, bring prosecutions and take other steps with a view to reducing the incidence of offences under Section 5 in its area.

**Section 8** grants local authorities powers to make test purchases.

**Sections 9 to 12** relate to power of entry. Under **Section 9**, an authorised officer of a local authority may enter premises at any reasonable time if they have reasonable grounds for believing an offence has been committed, or to ascertain whether an offence has been committed. This does not apply in relation to premises used wholly or mainly as a dwelling. They must not enter the premises by force, and must show documentary evidence if asked to do so. **Section 10** relates to power of entry for dwellings. It provides that a Justice of the Peace may issue a warrant to enable an authorised officer to enter a premises used wholly or mainly as a dwelling in certain circumstances. Entry may be obtained by force if needed.

**Section 11** deals with power of entry in other circumstances requiring a warrant. If access to premises that are not used wholly or mainly as a dwelling (dealt with under Section 10) is required. This Section enables a Justice of the Peace to issue a warrant for entry, by force if needed. The premises must be used for business purposes, or for both business and a dwelling.

**Section 12** covers supplementary issues relating to power of entry. An authorised officer is permitted to take with them any other persons and equipment they deem appropriate.

**Section 13** relates to powers of inspection. It confers powers on authorised officers entering premises to do various things to find out whether an offence has been committed. Officers can carry out inspections and examinations of premises, require the production of items on the premises, inspect them, and take samples or items. The officer may also require information and help from any person,

but they are not required to answer questions or produce any document which they would be entitled to refuse to answer or produce in the course of court proceedings in England or Wales.

**Section 14** outlines the offence of obstruction. A person commits an offence if they intentionally obstruct an authorised officer exercising their functions, or fail to provide the officer with facilities reasonably required under section 13. A person found guilty of an offence under this section is liable on summary conviction to a fine.

**Section 15** relates to retained property appeals. A person with an interest (in this context an “interest” means a legal right) in anything taken away from the premises by an authorised officer can apply to a magistrates’ court for an order to release the property.

**Section 16** provides a right for the person detailed in Section 15 to apply to a magistrates’ court for compensation for property taken.

**Section 17** enables regulations providing for civil sanctions to be made in respect of the Section 5 offences.

**Section 18** outlines that, for offences committed by partnerships or other unincorporated associations, proceedings are to be brought in the name of the partnership or association not in the names of any of its members. Fines are also to be paid out of the assets of the partnership or the funds of the association.

**Section 19** deals with the criminal liability of senior officers. Where an offence under the Bill is committed by a body corporate, partnership or unincorporated association (other than a partnership) individuals holding positions of responsibility within the relevant body may also be criminally liable.

#### **4.4. General**

**Section 20** provides definitions and signposting to definitions for terms used in the Bill.

**Section 21** explains how regulation making powers will be exercised, and sets out the procedure to be followed.

**Section 22** sets out which provisions take effect the day after the date of Royal Assent (Sections 3, 4, 17, 21, 22, 23) and which require a commencement order made by the Welsh Ministers (the remainder).

## 4.5. Schedule

The Schedule is introduced by Section 2 and includes a **table** that sets out the prohibited single-use plastic products under the Bill.

In the main, a product listed in column 1 is prohibited irrespective of the type of plastic used. The only exceptions are products made of oxo-degradable plastic. These are prohibited because of the type of plastic used rather than the type of product.

Column 2 of the table provides for exemptions that apply in respect of a particular type of product or the purpose for which the product is supplied. For example, column 2 contains exemptions for any cup or takeaway food container that is not made from expanded or foamed extruded polystyrene. Any person supplying the products in accordance with such exemptions will not be committing an offence under section 5. The Welsh Ministers have the power under Section 3 to make regulations to amend these exemptions in the future, for example to prohibit cups or takeaway food containers made of other types of plastic.

## 5. Stakeholder views

The Welsh Government published the [summary of responses](#) to its consultation on 12 August 2022. The consultation received 3,581 responses.

**It is important to note that the consultation only sought views on banning nine single-use plastic items. Polystyrene lids for cups and take away containers, and single-use carrier bags were not part of the consultation. They were added after the consultation. Furthermore, as the consultation was on introducing regulations rather than primary legislation the sections below refer to regulations rather than a Bill.**

### 5.1. Overview

The consultation responses showed a considerable level of support for a ban on all the single-use plastic items listed in the consultation. Where respondents provided a reason this was primarily on environmental grounds, and concerns over the impacts of items once littered due to the persistence of plastic in the environment.

A small number of respondents raised concerns over the potential negative impacts of a ban. These included the manufacturing sectors, academia, environmental NGOs and the government sector. These highlighted the need to support such action with life cycle analysis (LCA) studies to ensure any alternatives do not have a greater impact on the environment than plastic.

#### Straws

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For straws, concerns were primarily focused on the usability and/or cost of alternative materials or reusable straws. Whilst some were opposed to any form of ban or restriction on single-use plastic straws, others referred to the need for exemptions, including the exemption of medical straws.

#### Expanded and extruded polystyrene (EPS) food containers and cups

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Respondents from the manufacturing sector highlighted an increase in demand for single-use plastic products in healthcare settings as a result of the coronavirus pandemic. Concerns were also raised about whether alternative materials could pose a risk to food or consumer safety and suggested a need for further research in this area. Concerns included consideration of the thermal and insulation properties of EPS and its relatively 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.

### **Plates and cutlery**

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As with food and drinks containers, increased use of these items during the pandemic was suggested as a reason for not banning them. Disability groups highlighted potential negative impacts on individuals who are currently reliant on these types of items.

### **Products made of oxo-degradable plastic**

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In general there was a high level of support for including items made of this material due to the fact that they hasten the creation of microplastics. A number of respondents suggested greater clarification was required on the definitions being used to label certain products, for example, oxo-degradable, compostable and oxo-biodegradable, to help businesses and consumers make informed choices.

## **5.2. Balance of social/environmental benefits and impacts**

The summary outlined there was clear agreement among respondents that the proposed regulations would help limit the environmental impact of single-use plastic products in Wales and benefit society as a whole. The introduction of the carrier bag charge was frequently cited as an example of a policy that led to long-term environmental benefits despite short-term disruption to retailers and the public. Others felt availability of alternatives meant any inconvenience would be minor.

Some respondents highlighted the need for targeted behaviour change measures to help reduce littering, noting this would still occur regardless of the material.

There were also concerns raised that Welsh consumers would ultimately pay more if manufacturers and retailers passed on any costs by increasing prices of the goods they sold, rather than absorbing them. There were also concerns about the potential economic impacts on the manufacturing, retail and hospitality sectors if alternative products were more costly during an already challenging time.

## **5.3. Benefits and impacts on businesses**

Most respondents believed the regulations offered Welsh businesses potential to invest and manufacture alternatives to the products being banned. However, the plastic and packaging manufacturing sectors cautioned that developing new and innovative solutions was often costly. Others suggested such investments would

require financial support from government or additional regulatory action to prevent cheaper products being imported into Wales.

Concerns were raised by some respondents about the possible environmental costs of alternative products. This was due to the potential for these materials to have equal, or in some cases higher, energy costs to produce, transport and recycle.

A common theme in the responses was the belief Welsh businesses can adapt and innovate to the regulations provided they were clear, consistent and published within a reasonable timescale.

#### **5.4. Inclusion of oxo-degradable plastics**

The majority of responses to this question highlighted concerns about using plastics which are designed to break into smaller pieces (micro plastics) and the potential impacts on aquatic life, other ecosystems, entering the food chain and impacts on human health.

#### **5.5. Exemptions**

There was general support for the inclusion of exemptions. Respondents agreed that for most individuals a ban on single-use straws would result in their decision to use alternatives. Concerns were expressed that for some of the population, particularly older or disabled people, alternative drinking straws may not be suitable for a number of reasons including flexibility and injury risk. Others expressed concern that some manufacturers and businesses would view any exemption as potential loophole in the law and continue to produce the items, thus undermining the aim of reducing their usage.

Of those respondents in favour of exemptions, most preferred them to be kept to a minimum, with health and social care settings considered to be the most appropriate focus.

Clarity was sought on how the proposals and exemptions would apply to online shopping and goods imported. Consistency with other UK administrations was also considered important so as to ensure customers understood what items were available and how they could be accessed if needed.

Very few respondents suggested exemptions beyond those identified in the consultation. The additional suggestions focussed predominantly on EPS food containers, as well as beverage cups and cotton buds. For the former, support for exemptions came mainly from the manufacturing and food packaging sectors

which suggested a two year moratorium to allow small businesses to adjust and reduce potential economic impacts.

## **5.6. Timescales for implementation**

The timescales set out in the consultation were for the regulations to be introduced in Autumn 2021. The vast majority of respondents were in favour of this. However, some argued immediate action was needed, and others suggested businesses would need more time to adapt.

## **5.7. Civil sanctions**

There was clear support for the use of civil sanctions, with many agreeing this would provide a proportionate response to any breaches of the regulations. A small number of respondents felt this approach was too lenient and criminal sanctions/ large fines would be needed to ensure compliance.

## **5.8. Local Authority enforcement**

There was broad support for local authority enforcement – but often caveated with concerns about pressures on existing local authority resources. Other concerns included the potential for inconsistency between local authorities in how the regulations were enforced, and a small number of respondents recommended an all-Wales approach to enforcement.

## **5.9. Inclusion of wet wipes**

There was very strong support for the inclusion of wet wipes in the proposals, and whilst views varied on the timing, a large number suggested they should be included in the first phase of action. Some respondents suggested alternative strategies which would allow wipes to remain on sale, including:

- An Extended Producer Responsibility (EPR) scheme for wet wipes;
- Taxation on producers for every wipe produced, which would be ring-fenced to deal with issues in the wastewater system;
- More education and clear labelling that these items are not to be flushed; and
- Allowing the sale of wipes that biodegrade within a set time limit.

## **5.10. Other items for inclusion**

There was support for a move to a Deposit Return Scheme (DRS) for drinks bottle and cans, and a number of additional items suggested for action, including:

- Disposable razors;
- Packaging on fruit and vegetables;
- Take away/single serving condiment sachets;
- Glitter, balloons, confetti, bunting and similar temporary decorative items;
- Single-use bags and plastic “bags for life”;
- Tea bags and coffee pods;
- Takeaway coffee cups with plastic liners;
- Disposable nappies; and
- Plastic cigarette butts.

## **5.11. Welsh language**

Of the 180 respondents to this consultation question, the majority were unable to identify any adverse impacts the proposals would have on the Welsh language.

## **5.12. Additional issues**

The additional points raised in response to this consultation are summarised below:

- For the proposals to be introduced as quickly as possible as there is an urgent need to address the environmental impacts associated with use and littering of single-use plastic;
- A need for consistency in how any regulations would be implemented and enforced in Wales. Others noted this consistency should extend to other UK nations (should they follow a similar approach) to ensure maximum policy impact. One respondent also noted the potential implications of the UK Government’s then Internal Market Bill on the proposals;
- Wales should not wait for the rest of the UK and should take the lead, as with the carrier bag charge;
- The need for lifecycle assessments to be undertaken for alternative materials to ensure they do not pose a risk to the environment; and
- For the proposals to be designed and delivered as part of a holistic approach, including wider interventions such as taxes, DRS and EPR.

## 6. Regulatory Impact Assessment (RIA)

An RIA for the Bill forms part of the EM. The RIA summarises the costs and benefits of the Bill.

|   |   |                                 |
|---|---|---------------------------------|
| <b>Preferred option: Option 2:</b> Ban or restrict the supply to consumers in Wales if ten single-use plastic products and products made from oxo-degradable plastic. |   |                                 |
| <b>Stage:</b> Introduction  | <b>Appraisal period:</b><br>2020/21 – 2029/30 | <b>Price base year:</b> 2018/19 |
| <b>Total cost</b>   | <b>Total benefits</b>                         | <b>Net Present Value (NPV):</b> |
| <b>Total:</b> £18.9m  | <b>Total:</b> 14.7m                           | £-3.8m                          |
| <b>Present value:</b> £15.9m  | <b>Present value:</b> £12.0m                  |                                 |

### 6.1. Administrative cost

The RIA states there will be an initial implementation cost of £500,000 to the Welsh Government in developing bilingual guidance, developing communications to support the introduction of the Bill, and staff costs associated with its implementation. The Welsh Government also anticipates a recurring cost of £100,000 for staff managing the implementation of the legislation and future policy development in this area.

### 6.2. Cost savings

The RIA states there are unlikely to be cost savings of significance for the Welsh Government. It suggests correspondence lobbying for a ban may decrease following introduction of the Bill, but there may be a commensurate increase in correspondence relating to implementing the bans or the next phase of work. It assumes no administrative savings as a result of introducing the legislation.

### 6.3. Compliance costs

The RIA states there will be a cost of £14.1m NPV 2021-30 split between businesses and consumers. This reflects the price differential between single-use plastic items and non-plastic alternatives. In addition, the Welsh Government’s research suggested compliance costs of £0.2m NPV 2021-30 will fall to businesses to train staff, change suppliers and ensure compliance.

## **6.4. Other costs**

The Welsh Government's research estimated a cost of £0.2m NPV 2021-30 in relation to waste treatment of the products.

## **6.5. Unquantified costs and disbenefits**

The RIA identifies the main unquantified, material costs relate to manufacturing and, to an extent, other businesses, in switching production away from plastic items. It states this has not been quantified due to a lack of data about the number of manufacturers in Wales. It suggests due to similar laws being introduced elsewhere, businesses are likely to have incurred fully or be incurring these costs already, as they pivot their production to the requirements of these markets.

## **6.6. Benefits**

Benefits to the environment, nature and human health by reducing the risk of ecosystem, climate and human health problems resulting from plastic pollution have not been estimated, and the RIA states these are not known. It outlines the reduction of these risks is the prime reason for introducing the bans. Benefits for the period 2021 to 2030 are summarised as:

- £8.6m NPV in revenue for manufacturing, if the sector switches to non-plastic. The Welsh Government's analysis applies to UK manufacturing as a whole and has therefore not been included in the total benefits;
- £3.2m NPV in benefits to the environment and society from reductions in traded and non-traded carbon and litter disamenity benefits (£70m per annum cash);
- £0.2m NPV in reduced clean-up costs; and
- £0.1m NPV in benefits to the fishing industry.

The total benefits are calculated to be £14.7m (PV £12.0m).

The economic analysis in the RIA is based on banning nine products (as in the original consultation) rather than the 11 included in the Bill. It states the impact of banning the additional items has been discussed in terms of non-monetised or unquantified costs and benefits.

## **6.7. Economic and business costs**

The RIA states that during the consultation most of the impacts discussed by business stakeholders were anecdotal with no specific figures or estimates of costs. The discussion of economic impacts centred around costs to manufacturers, particularly regarding replacing machinery to support alternative products. Questions were raised regarding how the business would be able to finance this change, and what the consequences would be for end consumers.

Stakeholders indicated smaller businesses may be disproportionately affected by a ban, as these operate in a highly competitive market and are very price conscious. There were also concerns that third sector groups would be disproportionately affected due to limited financial resources. Despite this, on balance, they thought the overall impact would be low due to small unit price differences between plastic and non-plastic items and therefore supported the bans.

## **6.8. Welsh Government and Local Authorities**

Enforcement costs would be incurred by Local Authorities, and other regulatory costs would include ongoing management costs for Government and one-off costs of communicating the ban and introducing the legislation. There may also be legal costs in the cases of non-compliance, and training costs for local authority staff.

## **6.9. Post-implementation review**

The RIA outlines the Welsh Government will conduct a post-implementation review of the legislation no later than five years after it has come into force. It is envisaged the review will assess the effectiveness of the policy in achieving its objectives of:

- Supporting action to tackle the climate and nature emergency;
- Reducing the littering of single-use plastic products;
- The wasteful use of resources; and
- Adapting consumer behaviour to more sustainable alternatives.