

DRAFT FOR CONSULTATION

Waste Minimisation (Single-use Plastic Bag) Amendment Bill

Member's Bill

Explanatory note

General policy statement

New Zealanders use around 1.6 billion single-use plastic bags every year. On the whole they are made from a non-renewable resource and despite the best efforts of a growing number of environmentally aware shoppers who refuse plastic bags at the check-out the light weight bags still make their way into the environment where they pose significant harm to marine life. Plastic bags in the marine environment contribute to an estimated 100,000 marine mammal deaths per year. They create a risk of entanglement and turtles and whales have been found to eat them. Plastic bags are also problematic for humans as, over time in the marine environment, they degrade into micro-plastic which attract persistent organic pollutants and enter the food-chain once they have been consumed by fish.

This Bill proposes that single use plastic bags be subject to a charge paid by the customer when they receive the plastic bag in a shop. Some plastic bags at the checkout will be exempt to ensure food safety standards are met, however supplier will be required to keep track of the income generated by this charge. This income will be returned to the government and will be utilised specifically for environmental not-for-profits or charities engaged in waste minimisation projects or education, litter reduction, beach and river clean ups and any other activities designed to mitigate the impact of single use plastic bags on the environment in a similar way as the Waste Minimisation Fund.

This scheme is based on the legislative model enacted in the UK in October 2015 which introduced a 5 pence levy on single use plastic bags for some parts of the retail sector. In the first six months of this scheme plastic bag use dropped by 85% and close to 30 million pounds was raised for charity. Similar schemes in Denmark, Northern Ireland and Scotland have significantly reduced the use of single use plastic bags.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill will come into force on 1 July 2018.

Clause 3 states that the Bill amends the Waste Minimisation Act 2008 (the **principal Act**).

Clause 4 inserts a *new Part 2A*, which contains *new sections 24A to 24L*.

New section 24A states the purpose of *new Part 2A* which is to raise revenue for promoting and achieving waste minimisation and the mitigation of the impact of plastic bags on the environment and to increase the cost of single-use plastic bags to recognise the impact of their use on the environment.

New section 24B defines terms used in the new Part. Key terms include charitable purpose and reporting year.

New section 24C defines single-use plastic bag.

New section 24D defines supplier.

New section 24E defines net proceeds.

New section 24F provides that *new Part 2A* does not apply to certain single use plastic bags, including those used to contain unpackaged food or prescription medicines.

New section 24G states that a supplier must charge for a single-use plastic bag, and sets a minimum amount that may be charged by that supplier.

New section 24H provides how a supplier is to manage the net proceeds obtained from the charge under *section 24G*.

New section 24I states that a supplier must pay net proceeds to the charge collector.

New section 24J imposes a requirement that records must be kept by a supplier for every reporting year in which single-use plastic bags are supplied.

New section 24K provides that a supplier must produce the records kept in accordance with *section 24J* when requested by an enforcement officer.

New section 24L requires the Secretary to distribute collected proceeds by providing funding to charitable entities for projects related to waste minimisation and the mitigation of the impact of plastic bags on the environment.

Clause 5 amends section 65 of the principal Act, an offences section, to insert a new offence for contravention of *section 24G, 24H, 24I, 24J(1) or (3) or 24K(1)*.

Clause 6 amends section 76 of the principal Act to allow territorial authorities to appoint enforcement officers for their districts for the purposes of ensuring compliance with *Part 2A*.

Denise Roche

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Part 2A

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Waste Minimisation (Single-use Plastic Bag) Amendment Act **2016**.

2 Commencement

This Act comes into force on 1 July 2018.

3 Principal Act

This Act amends the Waste Minimisation Act 2008 (the **principal Act**).

4 New Part 2A inserted

After section 24, insert:

Part 2A	
Single-use Plastic Bag Charge	
Subpart 1—Preliminary provisions	
24A	Purpose of Part
	The purpose of this Part is to enable a charge to be imposed on single-use plastic bags to—
	(a) raise revenue for promoting and achieving waste minimisation and the mitigation of the impact of plastic bags on the environment; and
	(b) increase the cost of single-use plastic bags to recognise the impact of their use on the environment.
24B	Interpretation
	In this Part, unless the context otherwise requires,—
	charge means the minimum consideration that must be paid in accordance with section 24G
	charge collector means—
	(a) a person appointed by the Secretary to collect net proceeds arising from the charge; or
	(b) the Secretary, if there is no appointed charge collector

charitable entity has the same meaning as in section 2(1) of the Charities Act 2005

collected proceeds means net proceeds collected by the charge collector

consideration includes any chargeable GST

consumer has the same meaning as in section 2(1) of the Consumer Guarantees Act 1993

reporting year means a 12-month period starting on 1 July of one year and ending with the close of 30 June of the following year.

24C Meaning of single-use plastic bag

- (1) In this Part, unless the context otherwise requires, a **single-use plastic bag**—
 - (a) means a bag made wholly or mainly from plastic (including compostable and biodegradable plastic) provided by a supplier for the purpose of transporting goods supplied to a consumer by the supplier;
 - (b) does not include a plastic bag that is a **reusable bag**.
- (2) In this Part, a plastic bag is a **reusable bag** if it—
 - (a) is designed and manufactured to withstand repeated uses over a period of time; and
 - (b) is machine washable or made from material that can be cleaned and disinfected regularly; and
 - (c) has a minimum lifetime of 75 uses; and
 - (d) has the capability of carrying a minimum of 9 kilograms.

24D Meaning of supplier

- (1) In this Part, **supplier** means a person who, in trade, supplies goods to a consumer by transferring the ownership or the possession of the goods under a contract of sale, exchange, lease, hire, or hire purchase to which that person is a party.
- (2) Where a person (A) supplies goods in the capacity of an officer, employee or agent of another person (B), then B is the supplier of the goods and not A.

24E Meaning of net proceeds

- (1) In this Part, **net proceeds** means the consideration obtained by the charge less any specified amount specified in subsection (2).
- (2) The specified amounts are—
 - (a) where the consideration includes payments in excess of the charge, the amount of that excess;
 - (b) the amount of GST included in the charge;
 - (c) the amount of any reasonable costs.
- (3) In this section—

reasonable costs means costs reasonably incurred by a supplier to enable the supplier—

- (a) to comply with this Part; and
- (b) to communicate information about the charge to persons paying the charge.

24F Single-use plastic bags to which Part does not apply

- (1) This Part does not apply to a single-use plastic bag that is—
 - (a) used solely to contain—
 - (i) unpackaged food for human consumption:
 - (ii) unpackaged feed for animal consumption:
 - (iii) unpackaged loose seeds, bulbs, corms or rhizomes:
 - (iv) unpackaged goods contaminated by soil:
 - (v) an unpackaged axe, knife or blade:
 - (b) used solely to contain—
 - (i) a medical device or other appliance sold or supplied under a prescription given by an authorised prescriber or delegated prescriber:
 - (ii) a prescription medicine:
 - (iii) a restricted medicine:
 - (c) used solely to contain a live animal in water:
 - (d) used to contain a purchase made on board a ship, train, aircraft, coach or bus:
 - (e) used to contain a purchase made in a sterile area of an aerodrome:
 - (f) a mail order dispatch or courier bag:
 - (g) a gusseted liner used to line or cover a box.

- (2) In this section, —

animal has the same meaning as in section 2(1) of the Animal Welfare Act 1999

authorised prescriber and **delegated prescriber** have the same meaning as in section 2(1) of the Medicines Act 1981

medical device has the same meaning as in section 3A of the Medicines Act 1981

prescription medicine has the same meaning as section 3 of the Medicines Act 1981

restricted medicine has the same meaning as section 3 of the Medicines Act 1981

sterile area has the same meaning as in section 2(1) of the Civil Aviation Act 1990

unpacked means wholly or partly unwrapped.

Subpart 2—Requirement to charge

24G Requirement to charge for single-use plastic bag

- (1) A supplier must charge for a single-use plastic bag supplied new—
 - (a) at the place where goods are supplied, for the purpose of enabling the goods to be taken away; or
 - (b) for the purpose of enabling goods to be delivered to any person.
- (2) The amount that a supplier must charge for a single-use plastic bag is the amount that will ensure that the consideration paid by the person supplied with the bag is, for each such bag, not less than 15 cents.

Subpart 3—Net proceeds raised by the charge

Net proceeds must be paid to charge collector

24H Net proceeds must be banked

- (1) A supplier must bank net proceeds into a dedicated account at a registered bank in New Zealand as soon as reasonable practicable.
- (2) A supplier must ensure that the interest or other investment return on the net proceeds banked in accordance with **subsection (1)** is credited directly to or banked directly into (as the case may be) the dedicated account operated in accordance with **subsection (1)**.

24I Supplier must pay net proceeds to charge collector

A supplier must pay to the charge collector—

- (a) during each reporting year at least every quarter, all or nearly all of the net proceeds during the reporting year, and
- (b) within 3 months after the end of each of reporting year, any remainder of the net proceeds during the reporting year.

Records to be kept

24J Records to be kept by supplier

- (1) A supplier must keep a record of the information specified in **subsection (2)** for every reporting year in which the supplier supplies a single-use plastic bag in respect of which there is a requirement to charge under this Part.
- (2) The specified information is—
 - (a) the number of single-use plastic bags that are supplied by the supplier:

- (b) the consideration paid to the supplier for such bags:
 - (c) the amounts specified in **section 24E(2)**:
 - (d) the net proceeds:
 - (e) an itemised statement of the payment of net proceeds to the charge collector.
- (3) A record kept for the purposes of this section must be retained by the supplier for at least 5 years beginning on 31st May following the end of the reporting year to which the record relates.

24K Requirement to produce records to enforcement officer

- (1) A supplier must produce the records required to be kept and retained under **section 24J** to an enforcement officer on request.
- (2) A supplier must produce the records requested under **subsection (1)** as soon as practicable but no later than 28 days after the request has been made.
- (3) The records must be produced in such form, and in such manner, as the officer may reasonably require.

Distribution of collected proceeds

24L Secretary must distribute collected proceeds

The Secretary must distribute collected proceeds by—

- (a) paying any costs associated with collecting, distributing and administering the collected proceeds:
- (b) providing funding to charitable entities for projects that have as their primary purpose one or more of the following—
 - (i) waste minimisation
 - (ii) litter reduction
 - (iii) the mitigation of the impact of plastic bags on the environment.

5 Section 65 amended (Offences)

After section 65(2), insert:

- (2A) A person who contravenes **section 24G, 24H, 24I, 24J(1) or (3) or 24K(1)** commits an offence and is liable to a fine not exceeding \$10,000.

6 Section 76 amended (Enforcement officers)

Above section 76(2)(a), insert:

- (aa) for the purposes of ensuring compliance with **Part 2A**: