



# CLIMATE CHANGE (SINGLE USE PLASTICS) REGULATIONS 2022

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Statutory Document No. 2022/0077

*Climate Change Act 2021*

# CLIMATE CHANGE (SINGLE USE PLASTICS) REGULATIONS 2022

*Approved by Tynwald: 18 October 2022*  
*Coming into Operation: in accordance with regulation 2*

The Department of Environment, Food and Agriculture, having complied with the requirements of section 35<sup>1</sup> of the Climate Change Act 2021, makes the following Regulations under sections 29 and 30 of that Act.

## PART 1 – INTRODUCTORY

### 1 Title

These Regulations are the Climate Change (Single Use Plastics) Regulations 2022.

### 2 Commencement

If approved by Tynwald, these Regulations come into operation on the day after they have been approved by Tynwald<sup>2</sup>.

### 3 Interpretation

In these Regulations –

“**the Act**” means the Climate Change Act 2021;

“**catering establishment**” means a restaurant, canteen, club, public house or similar establishment (including a vehicle or a fixed or mobile stall) which supplies food or drink that is ready for consumption without further preparation;

<sup>1</sup> By section 35 of the Climate Change Act 2021, before exercising any power to make regulations or an order under that Act, the Department must consult “any person to whom the regulations relate, or who appears to the Department to represent such person, and any other person that the Department considers appropriate.”

<sup>2</sup> By section 30(4) of the Climate Change Act 2021, regulations must not come into operation until they are approved by Tynwald.

“**charity**” has the same meaning as in section 4 of the Charities Registration and Regulation Act 2019;

“**compliance notice**” has the meaning given by paragraph 1 of Schedule 3;

“**compostable plastic**” is plastic which conforms to BS EN 13432 Requirements for packaging recoverable through composting and biodegradation - Test scheme and evaluation criteria for the final acceptance of packaging;

“**end user**” means any person to whom a product is supplied, other than —

- (a) for the purpose of supplying it, in the course of a business or the activities of a charity, to another person; or
- (b) for the purposes of a manufacturing process;

“**enforcement undertaking**” means an undertaking given under paragraph 6 of Schedule 3;

“**excluded bag**” means a bag of a description set out in the table in Part 1 of Schedule 2;

“**final notice**” means a notice under paragraph 3 of Schedule 3;

“**health professional**” means —

- (a) a registered medical practitioner;
- (b) a registered nurse or midwife;
- (c) a registered dentist within the meaning of section 11 of the Dental Act 1985;
- (d) a registered pharmacist or a registered pharmacy technician within the meaning of article 3 of the Pharmacy Order 2010 (of Parliament)<sup>3</sup>;
- (e) a registered dietician, registered occupational therapist or registered physiotherapist;

“**medical device**” means any instrument, apparatus, appliance, material or other article, whether used alone or in combination, together with any accessories, which —

- (a) is intended by the manufacturer to be used for human beings for the purpose of —
  - (i) diagnosis, prevention, monitoring, treatment or alleviation of disease;
  - (ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury or handicap;
  - (iii) investigation, replacement or modification of the anatomy or of a physiological process; or
  - (iv) control of conception; and

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<sup>3</sup> S.I. 2010/231

- (b) does not achieve its principal intended action in or on the human body by pharmacological, immunological or metabolic means, even if it is assisted in its function by such means,

and includes devices intended to administer a medicinal product or which incorporate as an integral part a substance which, if used separately, would be a medicinal product and which is liable to act upon the body with action ancillary to that of the device;

“**medical purposes**” means the purposes of preventative medicine, medical diagnosis, medical research and the provision of medical care and treatment;

“**microbead**” means any water-insoluble solid plastic particle of less than or equal to 5mm in any dimension;

“**notice of intent**” means a notice served under paragraph 2 of Schedule 3;

“**plastic**” means a material (except compostable plastic) consisting of polymer as defined in Article 3(5) of Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)<sup>4</sup>, to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of natural polymers that have not been chemically modified.;

“**prohibited single use plastic item**” means an item of a description set out in Schedule 1;

“**rinse-off personal care product**” means any substance, or mixture of substances, manufactured for the purpose of being applied to any relevant human body part in the course of any personal care treatment, by an application which entails at its completion the prompt and specific removal of the product (or any residue of the product) by washing or rinsing with water, rather than leaving it to wear off or wash off, or be absorbed or shed, in the course of time; and for this purpose —

- (a) a “**personal care treatment**” means any process of cleaning, protecting or perfuming a relevant human body part, maintaining or restoring its condition or changing its appearance; and
- (b) a “**relevant human body**” part is —
- (i) any external part of the human body (including any part of the epidermis, hair system, nails or lips);
  - (ii) the teeth; or
  - (iii) the mucous membranes of the oral cavity;

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<sup>4</sup> OJ L 396, 30.12.2006, p. 1, as last amended by Commission Regulation (EU) 2021/57 (OJ L 024, 26.1.2021, p. 19).

“**supply**” means supply, whether by way of sale or not and includes the presentation of a product as a promotional prize or gift in the course of a business; and

“**variable monetary penalty**” has the meaning given by paragraph 1 of Schedule 3.

## **PART 2 – PROHIBITED SINGLE USE PLASTIC ITEMS**

### **4 Prohibition - single use plastic items**

- (1) A person must not, in the course of a business or the activities of a charity or non-profit organisation, supply or offer to supply to an end user a prohibited single use plastic item.
- (2) An offence is not committed under paragraph (1) if the person supplies or offers to supply –
  - (a) an excluded bag;
  - (b) compostable plastic; or
  - (c) an exempt item.
- (3) An exempt item is an item in respect of which paragraph (1) does not apply by virtue of Part 2 or 3 of Schedule 2.

### **5 Prohibition - microbeads**

- (1) A person must not use microbeads as an ingredient in the manufacture of any rinse-off personal care product.
- (2) A person must not supply, or offer to supply, any rinse-off personal care product containing microbeads.

## **PART 3 – ENFORCEMENT**

### **6 Authorised officers**

An authorised officer may exercise any power under section 32 of the Act for the purpose of determining whether a requirement of –

- (a) these regulations;
- (b) a compliance notice; or
- (c) an enforcement undertaking that has been accepted by the Department,

has been or is being contravened.

## 7 Civil sanctions

Schedule 3 (enforcement and civil sanctions) has effect for the purpose of the enforcement of these Regulations.

## 8 Offences

- (1) A person who contravenes —
  - (a) regulation 4(1); or
  - (b) regulation 5,is guilty of an offence.
- (2) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 9 Transitional provision

It is not an offence under regulation 8 if the contravention occurred before the end of the 12 month period beginning on the day these regulations come into operation.

## 10 Defence of due diligence

- (1) Subject to paragraphs (2) and (5), in proceedings for an offence under these Regulations it is a defence for a person (“P”) to show that P took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) P may not rely on a defence under paragraph (1) which alleges that the commission of the offence was due to —
  - (a) the act or default of another person (“O”); or
  - (b) P’s reliance on information supplied by O,unless the condition in paragraph (3) is met.
- (3) The condition referred to in paragraph (2) is that P has —
  - (a) served a notice in accordance with paragraph (4); or
  - (b) obtained the leave of the court.
- (4) The notice must —
  - (a) give any information in P’s possession which identifies or assists in identifying O; and
  - (b) be served on the person bringing the proceedings not less than 7 clear days before the hearing of the proceedings.
- (5) P may not rely on a defence under paragraph (1) which alleges that the commission of the offence was due to P’s reliance on information supplied by O unless it was reasonable for P to have relied on the information, having regard in particular to —

- (a) the steps that P took, and those which might reasonably have been taken, for the purposes of verifying the information; and
- (b) whether P had any reason to disbelieve the information.

## **11 Time limit for the prosecution of offences**

- (1) A prosecution for an offence under regulation 8(1) may begin no later than —
  - (a) 3 years from the commission of the offence; or
  - (b) 1 year from its discovery by the prosecuting authority,whichever is the earlier.
- (2) A prosecution under paragraph 8(1) of Schedule 3 may begin no later than 6 months from the date on which the Department notified the person required to comply with that undertaking of that person's failure to do so.

**MADE 22 JULY 2022**

**CLARE BARBER**

*Minister for Environment, Food and Agriculture*



## SCHEDULE 1

[Regulation 4(1)]

## PROHIBITED SINGLE USE PLASTIC ITEMS

Prohibited Item	Description
Single use plastic stemmed cotton bud	An item that consists of a rod made wholly or partly of plastic with cotton wrapped around one or both ends and that is not designed or intended to be re-used, other than a medical device.
Single use plastic cutlery	Utensils, such as forks, knives, spoons and chopsticks, which are used for eating or serving food and that are made wholly or partly from plastic and that are not designed or intended to be re-used.
Single use plastic plates and bowls	A plate or bowl from which food is eaten or served that is made wholly or partly from plastic and that is not designed or intended to be re-used.
Single use plastic straws	A straw that is made wholly or partly from plastic and that is not designed or intended to be re-used.
Single use plastic beverage stirrers	An implement made wholly or partly from plastic designed and intended for stirring drinks.
Single use plastic balloon sticks	Sticks and the mechanisms of such sticks to be attached to and to support balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers.
Single use plastic carrier bags	An unused bag made of lightweight plastic with handles that is supplied to the end user by a retailer for immediate use, other than an excluded bag.
Products made from oxo-degradable plastic	Products made from plastic materials that include additives which, through oxidation, lead to the fragmentation of the plastic material into micro-fragments or to chemical decomposition.
Polystyrene food containers for immediate use.	Food containers made of expanded polystyrene with or without a cover, used to contain food which — <ul style="list-style-type: none"> <li>(a) is intended for immediate consumption, either on-the-spot or take-away;</li> <li>(b) is typically consumed from the receptacle; and</li> <li>(c) is ready to be consumed without any further preparation, such as cooking, boiling or heating,</li> </ul>

	including food containers used for fast food or other meals ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food.
Polystyrene cups	Cups for beverages made of expanded polystyrene, including their covers and lids.

## SCHEDULE 2

[Regulation 4(3)]

## EXEMPTIONS

## PART 1 – SINGLE USE CARRIER BAGS

## 1 Excluded bags

(1) The following are excluded bags –

Name/Type	Description
Unwrapped food bag	A bag intended to be used solely to contain wholly or partly unwrapped food for human or animal consumption.
Unwrapped loose seeds bag	A bag intended to be used solely to contain wholly or partly unwrapped loose seeds, bulbs, corns, rhizomes, flowers or goods contaminated by soil.
Prescription-only medicine bag	A bag intended solely to contain drugs or appliances supplied by a pharmacist in accordance with a prescription.
Uncooked meat food bag	A bag intended to be used solely to contain uncooked fish or fish products, meat or meat products or poultry or poultry products.
Live aquatic creatures bag	A bag intended to be used solely to contain live aquatic creatures in water.
Returnable multiple reuse bag	A bag which is sold to the end user and which – (a) is intended to be returnable to the seller from whom it was purchased to be replaced free of charge; (b) is made from material the thickness of which is not less than 50 microns but not greater than 70 microns; and (c) disregarding the width of any gussets, or the height of any handles extending above the main body of the bag – (i) has a width and height greater (in each case) than 404 mm; and (ii) has a width or height greater (in either case) than 439 mm.
Woven plastic bag	A bag the material of which is made by interlacing long threads passing in one direction with others at a right angle to them.
Transit goods bag	A bag which is intended to be used to carry goods in a transit place.

- (2) For the purposes of determining whether a bag falls within a description listed in the table, the fact that the bag may be intended to be used to contain items referred to in the description relating to any other of those bags is to be disregarded.
- (3) In sub-paragraph (1) “transit place” means on board a ship, train, aircraft, coach or bus, or in an area designated by the Department for Enterprise as a security restricted area under section 11A of the Aviation Security Act 1982<sup>5</sup> as it applies as part of the law of the Isle of Man.

## PART 2 — SINGLE USE PLASTIC STRAWS

### 2 Exemption: retail pharmacy businesses

- (1) Paragraph (1) of regulation 4 does not apply to the supply of a single use plastic straw by a retail pharmacy business in the cases in sub-paragraph (2), provided that the conditions in sub-paragraph (3) are complied with.
- (2) The cases referred to in sub-paragraph (1) are where the single use plastic straw is supplied to an end user —
  - (a) at a registered pharmacy; or
  - (b) by means of online or other distance selling arrangements.
- (3) The conditions are that single use plastic straws —
  - (a) must not be advertised to customers by the retail pharmacy business; and
  - (b) if supplied at a registered pharmacy —
    - (i) must not be kept in a place where they are visible to customers, or where customers can access them; and
    - (ii) must not be offered or provided to a customer unless the customer has requested them.
- (4) The condition in sub-paragraph (3)(a) does not prohibit the display of single use plastic straws for sale on a website or application through which the retail pharmacy business sells products online.
- (5) In this paragraph “registered pharmacy” and “retail pharmacy business” have the meanings given in Schedule 2 of the Medicines Act 2003.

### 3 Exemption: catering establishments

Paragraph (1) of regulation 4 does not apply to the supply by a catering establishment of a single use plastic straw together with food or drink which is supplied for immediate consumption, provided that the single use plastic straws —

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<sup>5</sup> Applied to the Isle of Man by SD 2018/0279

- (a) must not be kept in a place where they are visible to customers, or where customers can access them; and
- (b) must not be offered or provided to a customer unless the customer has requested them.

#### 4 Exemption: packaging

- (1) Paragraph (1) of regulation 4 does not apply to the supply of a single use plastic straw –
  - (a) that is packaging; or
  - (b) which is attached to the packaging of a drink product and is intended to be used to consume that drink.
- (2) In this paragraph, “packaging” means products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer, including non-returnable items used for the same purposes, but only where the products are –
  - (a) sales packaging or primary packaging, that is to say packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
  - (b) grouped packaging or secondary packaging, that is to say packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale, and which can be removed from the product without affecting its characteristics; or
  - (c) transport packaging or tertiary packaging, that is to say packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage; for the purposes of these Regulations transport packaging does not include road, rail, ship and air containers.
- (3) The following items must also be considered to be packaging on the basis of the criteria set out below –
  - (a) items that fall within the definition in sub-paragraph (2) without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together;
  - (b) items designed and intended to be filled at the point of sale and disposable items sold, filled or designed and intended to be filled at the point of sale provided they fulfil a packaging function; and

- (c) packaging components and ancillary elements integrated into packaging, and ancillary elements hung directly on, or attached to, a product and which perform a packaging function, unless they are an integral part of that product and all elements are intended to be consumed or disposed of together.

## 5 Exemption: medical devices and medical purposes

Paragraph (1) of regulation 4 does not apply to the supply of a single use plastic straw —

- (a) that is a medical device;
- (b) for use for medical purposes by or under the direction of a health professional; or
- (c) by a health professional for medical purposes.

## 6 Exemption: other establishments

(1) Paragraph (1) of regulation 4 does not apply to the supply of a single use plastic straw in —

- (a) an adult care home or adult day care centre;
- (b) a child-related care service;
- (c) a prison or other place of detention; or
- (d) a school.

(2) The exemption provided for under paragraph (1) is only for the use of a single use plastic straw where it is used for —

- (a) a medical purpose by or under the direction of a health professional; or
- (b) the provision of a service in a place referred to in paragraph (1)(a), (b), (c) or (d) where it is not reasonably practicable to use the service without being supplied with a single use plastic straw in connection with that service.

(3) In this regulation —

- (a) “**adult care home**” has the same meaning as in section 16 of the Regulation of Care Act 2013;
- (b) “**adult day care centre**” has the same meaning as in section 17 of the Regulation of Care Act 2013;
- (c) “**child-related care service**” has the same meaning as in section 12 of the Regulation of Care Act 2013;
- (d) “**prison**” means a place designated as an institution in accordance with section 11 of the Custody Act 1995;
- (e) “**other place of detention**” includes —

- (i) a police station designated in accordance with section 15(1) of the Custody Act 1995; and
  - (ii) any part of a court building, being a part where defendants in criminal proceedings are or may be held before, during or after their appearance before a court pursuant to section 18A(1)(b) of the Custody Act 1995; and
- (f) “school” has the same meaning as in section 59 of the Education Act 2001.

### **PART 3 – SINGLE USE PLASTIC STEMMED COTTON BUDS**

#### **7 Exemption: medical devices and medical purposes**

Paragraph (1) of regulation 4 does not apply to the supply of a single use plastic stemmed cotton bud –

- (a) that is a medical device;
- (b) for use for a medical purpose by or under the direction of a health professional; or
- (c) by a health professional for a medical purpose.

#### **8 Exemption: forensic and scientific purposes**

(1) Paragraph (1) of regulation 4 does not apply to the supply of a single use plastic stemmed cotton bud –

- (a) to a forensic service provider; or
- (b) for scientific purposes.

(2) In this paragraph –

- (a) “forensic service provider” means any person that carries out laboratory activities for the purpose of the prevention, detection or investigation of criminal offences at the request of –
  - (i) an officer of a police force maintained under the Police Act 1993;
  - (ii) an officer appointed under section 1(2) of the Customs and Excise Management Act 1986; or
  - (iii) an officer of an institution appointed under section 13(1) of the Custody Act 1995; and
- (b) “scientific purposes” means diagnostic, educational or research purposes.





**SCHEDULE 3**

[Regulation 7]

**CIVIL SANCTIONS****1 Variable monetary penalty and compliance notice**

- (1) This paragraph applies where the Department is satisfied on the balance of probabilities that a person has contravened regulation 4(1) or 5.
- (2) If this paragraph applies, the Department may by notice impose on a person a requirement to —
  - (a) pay a monetary penalty to the Department of such amount as the Department may determine (“a variable monetary penalty”); or
  - (b) take such steps as the Department may specify, within such period as it may specify, to secure that the contravention does not continue or recur (“a compliance notice”).
- (3) A requirement under sub-paragraph (2)(a) or (b) may not be imposed on a person on more than one occasion in relation to the same contravention.
- (4) A variable monetary penalty must not —
  - (a) be unreasonable, having regard to the severity of the contravention;
  - (b) exceed 10% of the annual turnover in the Isle of Man of the person on whom the requirement to pay it is imposed; or
  - (c) exceed the amount of a fine of level 5 on the standard scale.
- (5) Before imposing on a person a requirement to pay a variable monetary penalty, the Department may require the person to provide such information as is reasonable for the purpose of establishing the amount of any financial benefit arising from that contravention.

**2 Notice of intent**

- (1) Where the Department proposes to require a person to pay a variable monetary penalty or comply with a compliance notice, the Department must serve on that person a notice of what is proposed (a “notice of intent”).
- (2) The notice of intent must include —
  - (a) the requirements of the proposed compliance notice and, in the case of a penalty, the proposed amount to be paid;
  - (b) the grounds for the proposed compliance notice or variable monetary penalty; and
  - (c) information as to —

- (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
  - (ii) the circumstances in which the Department may not impose the variable monetary penalty or compliance notice.
- (3) A person on whom a notice of intent is served may, within 28 days beginning with the day on which the notice was received, make representations and objections to the Department in relation to the proposed imposition of a variable monetary penalty or compliance notice.
- (4) Where a person has made representations or objections under this paragraph, further representations or objections must not be considered by the Department, whether or not such further representations or objections are made in accordance with this paragraph.

### **3 Final notice: general**

- (1) After the end of the period for making representations and objections referred to in paragraph 2(3), the Department must decide whether —
  - (a) to impose the requirements in the notice of intent, with or without modifications; or
  - (b) to impose any other requirement that the Department has power to impose under this Schedule.
- (2) Where the Department decides to impose a requirement, the notice imposing it (the “final notice”) must comply with paragraph 4, in the case of a variable monetary penalty, or paragraph 5, in the case of a compliance notice.
- (3) The Department must not serve a final notice on a person where the Department is reasonably satisfied that the person would not, by reason of any defence brought to the attention of the Department, be liable to be convicted of an offence in respect of the contravention to which the notice relates if criminal proceedings were to be instigated against the person.

### **4 Final notice: variable monetary penalty**

A final notice for a variable monetary penalty must include information as to —

- (a) the grounds for imposing the penalty;
- (b) the amount to be paid;
- (c) how payment may be made;
- (d) the period within which payment must be made, which must be not less than 28 days beginning with the date of the notice;
- (e) rights of appeal under paragraph 11; and
- (f) the consequences of failing to comply with the notice.

## 5 Final notice: compliance notice

A final notice relating to a compliance notice must include information as to —

- (a) the grounds for imposing the notice;
- (b) what compliance is required and the period within which it must be completed which must be not less than 28 days beginning with the date of the notice;
- (c) rights of appeal under paragraph 11; and
- (d) the consequences of failing to comply with the notice.

## 6 Enforcement undertakings

- (1) Within 28 days of receipt of the notice of intent the recipient may give to the Department a written undertaking to take such action as may be specified in the undertaking within such period as may be so specified (an “enforcement undertaking”).
- (2) An enforcement undertaking must specify —
  - (a) what action will be taken —
    - (i) to secure that the contravention does not recur;
    - (ii) that will secure benefit to the environment equivalent to what has been, or is likely to have been, the detrimental effect of the commission of the contravention; and
  - (b) the period within which the action must be completed.
- (3) An enforcement undertaking must include —
  - (a) a statement that the undertaking is made in accordance with this Schedule;
  - (b) the terms of the undertaking; and
  - (c) information as to how and when the recipient is to be considered to have discharged the undertaking.
- (4) Within 28 days of receiving the enforcement undertaking the Department must consider the undertaking and notify the recipient as to whether or not the undertaking has been accepted.
- (5) Where the Department accepts the enforcement undertaking the notification made under sub-paragraph (4) must include —
  - (a) confirmation that the notice of intent is withdrawn subject to the recipient complying with the enforcement undertaking;
  - (b) information about the consequences of not complying with the enforcement undertaking;
  - (c) information about how the recipient may obtain a completion certificate (referred to in paragraph 7);

- (d) information about the reasons the Department may refuse to issue a completion certificate; and
  - (e) the recipient's right to appeal in accordance with paragraph 11 against a decision of the Department not to issue a completion certificate.
- (6) If the Department has accepted an enforcement undertaking, then, unless the recipient has failed to comply with the undertaking or any part of it, —
- (a) the recipient may not at any time be convicted of an offence in respect of the contravention to which the undertaking relates; and
  - (b) the Department may not serve a further notice of intent, variable monetary penalty or compliance notice in respect of that contravention.
- (7) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if the Department and the recipient agree in writing.
- (8) Where the Department decides not to accept an enforcement undertaking the notice under sub-paragraph (4) must include the reasons for the decision.
- (9) Where the recipient has made an enforcement undertaking under this paragraph, further enforcement undertakings submitted by that recipient must not be considered by the Department, whether or not such further enforcement undertakings are made in accordance with this paragraph.

## **7 Completion certificates**

- (1) If the Department is satisfied that an enforcement undertaking has been complied with, it must issue a certificate to that effect (a “completion certificate”).
- (2) The Department may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.
- (3) The person who gave the undertaking may at any time apply for a completion certificate.
- (4) Within 28 days of receiving an application for a completion certificate the Department must either —
- (a) issue a completion certificate; or
  - (b) give written notice of the decision not to issue a completion certificate to the applicant, with reasons for that decision.
- (5) Where the Department is not satisfied that an enforcement undertaking has been complied with and has given written notice under sub-paragraph (4)(b), the person on whom that notice is served may appeal against the Department's decision in accordance with paragraph 11.

- (6) A person who has given inaccurate, misleading or incomplete information in relation to an enforcement undertaking is to be taken not to have complied with it.
- (7) The Department may by notice in writing revoke a completion certificate if it was issued on the basis of inaccurate, misleading or incomplete information.

## **8 Non-compliance with a final notice or enforcement undertaking**

- (1) A person who fails to comply with —
  - (a) a final notice relating to a compliance notice; or
  - (b) an enforcement undertaking that has been accepted by the Department,is guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) If a person has complied partly but not fully with a final notice or enforcement undertaking, that partial compliance must be taken into account by the court when sentencing the person.

## **9 Withdrawing or amending a notice**

The Department may at any time in writing —

- (a) withdraw a notice imposing a variable monetary penalty or a compliance notice;
- (b) reduce the amount of a variable monetary penalty; or
- (c) amend the requirements imposed by a compliance notice in order to reduce the amount of work necessary to comply with that notice.

## **10 Power to recover payments**

The Department may recover any variable monetary penalty imposed under this Schedule as if payable under a court order.

## **11 Appeals**

- (1) An appeal against —
  - (a) a final notice served under paragraph 3; or
  - (b) a decision of the Department not to issue a completion certificate under paragraph 7;is to a court of summary jurisdiction.
- (2) The final notice is suspended pending the determination or withdrawal of the appeal.

- (3) The court of summary jurisdiction may, in relation to the imposition of a requirement or penalty or the service of a notice under this Schedule —
- (a) withdraw the final notice or decision;
  - (b) confirm the final notice or decision;
  - (c) vary the final notice or decision;
  - (d) take such steps as the Department could have taken in relation to the contravention giving rise to the requirement, penalty or notice;  
or
  - (e) remit the decision whether to confirm the final notice, decision, or any matter relating to that notice or decision, to the Department.

### *EXPLANATORY NOTE*

*(This note is not part of the Regulations)*

These Regulations prohibit the supply of certain single use plastic items and contribute to alignment with EU Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment.

Regulation 4(1) prohibits the supply, or offer to supply, by a business, charity or non-profit organisation of a prohibited single use plastic item (see Schedule 1) to an end user. The prohibition is subject to exemptions (regulation 4(2) and (3) and Schedule 2).

Regulation 5 prohibits the use of microbeads as an ingredient in the manufacture of rinse-off personal care products and the supply, or offer to supply, of rinse-off personal care products containing plastic microbeads.

Regulation 6 enables the Department to authorise officers for the purposes of enforcing these Regulations.

Regulation 7 enables the Department to impose civil sanctions, as set out in Schedule 3, in relation to the contravention of paragraph 4(1) or 5.

Regulation 8 sets out offences under these Regulations and the relevant penalties.

Regulation 9 provides for a transitional period following the commencement of the Regulations during which it is not an offence to supply, or offer to supply, prohibited single use plastic items or rinse-off personal care products containing microbeads.

Regulation 10 provides a defence for suppliers who have committed an offence under the Regulations but have undertaken all reasonable steps and exercised all due diligence to avoid committing the offence.

Regulation 11 sets out the time limits for the prosecution of offences under these Regulations.

Schedule 1 specifies the items which are prohibited single use plastic items for the purposes of the Regulations.

Schedule 2 sets out exemptions from the prohibition in regulation 4(1) (excluded bags, single use plastic straws and single use plastic stemmed cotton buds).

Schedule 3 sets out the civil sanctions which the Department may impose in relation to a contravention of regulation 4(1) or 5.