

Introducing Market Restrictions on Problematic Single-Use Plastic Items in Scotland

**Partial Business and Regulatory Impact
Assessment (BRIA)**

October 2020



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1.0 Title of Proposal: Market Restrictions on Problematic Single-Use Plastic Items in Scotland

1. This document is the partial Business and Regulatory Impact Assessment (BRIA) for proposed market restrictions on problematic single-use plastic items and all oxo-degradable products as identified in Article 5 of the EU Single-Use Plastics Directive (EU) 2019/904. Following consultation a final BRIA will be developed and published, building detail into the current proposal. The partial BRIA is written subject to the best available information at the time.

2.0 Purpose and Intended Effect

2.1 Background

1. The EU single-use Plastics Directive¹ published in June 2019 proposes action on 10 single-use plastic items that account for approximately 70% of marine litter products found on European beaches. The directive promotes circular approaches and includes a set of ambitious measures to reduce the impact of these single-use plastics items. One of the measures, contained within Article 5 of the Directive, is a restriction on placing selected single-use products on the market.
2. These proposals build on a range of activity already undertaken as Ministers have sought to create a more circular economy which keeps products and materials in high value use for as long as possible.
3. In February 2016, *Making Things Last: A Circular Economy Strategy for Scotland*² was published. This overarching strategy integrated the key elements of the *Zero Waste Plan*³ and *Safeguarding Scotland's Resources*⁴ and built on Scotland's zero waste and resource efficiency agendas. The strategy set out how a more circular economy would benefit:
 - the Environment – cutting waste and carbon emissions and reducing reliance on scarce resources;
 - the Economy – improving productivity, opening up new markets and improving resilience; and
 - communities – more lower cost options to access the goods we need with opportunities for social enterprise.

¹ [European Single-use Plastics Directive](#)

² [Making Things Last](#)

³ [Zero Waste Plan](#)

⁴ [Safeguarding Scotland's Resources](#)

4. The Scottish Government has acted to address the negative externalities associated with single-use disposable products through the introduction of the single-use carrier bag charge in 2014 and its pending increase; the ban of microbeads in 2018; and the ban of plastic-stemmed cotton buds which came into effect in October 2019. The Scottish Government will also introduce a Scottish Deposit Return Scheme to increase recycling rates and reduce littering of single-use drinks containers. Regulations were passed by the Scottish Parliament in May 2020⁵ and the scheme will become operational in 2022.
5. The Expert Panel on Environmental Charging and Other Measures (EPECOM)⁶ was formed in May 2018. Its remit is to advise Scottish Ministers on charges or other measures which may be adopted in Scotland with the goal of encouraging the long-term and sustainable changes in consumer and producer behaviour required to move towards a circular economy. In July 2019 the Expert Panel set out its recommendations to tackle the dependence on, and environmental impact of, single-use disposable beverage cups in Scotland. Included in its recommendations was support for the commitment within the EU Single-Use Plastics Directive to ban expanded polystyrene beverage cups by 2021⁷. The group published a second report *Ending the Throwaway Culture: Five Principles for Tackling Single-use Items*⁸ in September 2020.

2.2 Objective and Rationale

6. The Scottish Government proposes to introduce legislation which introduces market restrictions on specific disposable single-use plastic products and the evidence summarised in this document will be used to inform the policy-making process.
7. When disposed of incorrectly, single-use plastic products end up in our rivers, lochs, and seas and cause significant harm to the marine environment as well as to the public's enjoyment of Scotland's natural landscapes. The disposable single-use plastic products specified in this impact assessment are some of the most commonly found products of plastic litter washed up on Scotland's shores⁹.
8. Potential reusable and/or non-plastic alternatives that exist for the specified single-use disposable products have been identified as part of the BRIA

⁵ <https://www.legislation.gov.uk/ssi/2020/154/contents/made>

⁶ [EPECOM](#)

⁷ [Expert Panel Recommendation](#)

⁸ <https://www.gov.scot/publications/ending-throwaway-culture-five-principles-tackling-single-use-items/>

⁹ 2019 Great British Beach Clean data, Marine Conservation Society

process. However, Scottish Ministers will also explore the merits of specific exemptions to the market restrictions, including for example on medical grounds. Those exemptions will be considered in the Equality Impact Assessment which accompanies this BRIA.

9. It is expected that market restrictions on a range of single-use disposable products will:
 - Reduce the volume of plastic waste created
 - Reduce the amount of plastic waste entering Scotland's rivers, lochs and seas
 - Reduce the number of products littered where reusable substitutes exist
 - Encourage wider behaviour change around materials.
10. Achieving these strategic objectives will help Scotland progress towards its 2025 waste targets, accelerating Scotland's transition from a 'linear' economy which is environmentally unsustainable and energy and resource intensive to a more resource efficient and sustainable circular economy.
11. With reference to the National Performance Framework¹⁰, directly applicable strategic objectives are:
 - We value and enjoy our built and natural environment and protect it and enhance it for future generations¹¹.
 - We reduce the local and global environmental impact of our consumption and production¹².
12. Directly applicable from the Measurement Set¹³ are:
 - Reduce Greenhouse Gas Emissions
 - Improve Scotland's reputation
 - Improve people's perceptions of their neighbourhood
 - Improve the condition of protected nature sites
 - Increase natural capital
 - Improve the state of Scotland's marine environment
 - Reduce Scotland's carbon footprint

¹⁰ [National Performance Framework](#)

¹¹ [National Outcome: We value and enjoy our built environment and protect it and enhance it for future generations](#)

¹² [National Outcome: We reduce the local and global environmental impact of our consumption and production](#)

¹³ [NPF](#)

- Reduce waste generated.
13. Enacting market restrictions on specific single-use plastic products will contribute to objectives set out in the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019¹⁴.
 14. The Climate Change Plan: Third RPP 2018-2032 was published in February 2018 and sets out plans to achieve decarbonisation of the economy in the period to 2032, making progress towards the target of reducing emissions by 80% by 2050. An update to the Climate Change Plan was originally due to be published in April 2020, but was postponed due to the COVID-19 Pandemic. This update is now expected in late 2020.
 15. In 2015, the Scottish Government signed up to support the United Nations Sustainable Development Goals¹⁵. The ambition behind the goals is to end poverty, protect the planet and ensure prosperity for all as part of a new sustainable development agenda. Market restrictions on the specified single-use plastic products will have a positive impact on a number of these goals, most explicitly Goals 12, 13, 14 and 15:
 - Responsible Consumption and Production
 - Climate Action
 - Life Below Water
 - Life on Land.
 16. Finally, enacting market restrictions on specific single-use plastic products will contribute to the Green Recovery Plan objectives set out in Protecting Scotland, Renewing Scotland¹⁶, the Government's Programme for Scotland 2020-21:

"We will ensure our rural economy and Scotland's rich natural resources and biodiversity are central to our economic, environmental, and social wellbeing."

3.0 Consultation

3.1 Consultation Within Government

17. The Scottish Government Environment and Forestry Directorate has engaged with other relevant teams across the Scottish Government regarding the potential impacts of the policy on, for example:

¹⁴ [CC Scotland Act 2019](#)

¹⁵ [UN Sustainable Development Goals](#)

¹⁶ [Programme for Government 2020-21](#)

- Socio-economic inequality issues such as low income, low wealth, and area deprivation;
- Different geographic communities including island communities;
- Disabled people; and
- Businesses, including the food and drink industry and the hospitality sector.

3.2 Public Consultation

18. This Partial BRIA will be published alongside the Scottish Government consultation paper on the proposed market restrictions. That public consultation will run for 12 weeks from 12 October 2020 to 4 January 2021.

3.3 Business Consultation

19. Engagement with businesses will identify: (1) the current state of the market for the specified single-use plastic items in Scotland; (2) the evidence-base related to individual items (e.g. sales volume; unit cost per item); (3) industry views around the impact of market restrictions for the items; and (4) the potential for unintended consequences of market restrictions.

20. To understand the full impacts of the proposed legislation on small, medium, and large businesses, discussions with an appropriate cross-section of affected stakeholders will be held. It is expected that the following stakeholder groups will be directly affected by the proposed legislation:

- Scottish manufacturers
- Suppliers
- Wholesalers
- Hospitality businesses
- Retail and retail representative bodies
- Recycling and waste management organisations.

The following stakeholder groups are expected to be indirectly affected by the proposed legislation:

- Plastics additive suppliers
- Raw materials suppliers
- Equipment suppliers
- Environmental, conservation, food and health charities
- Public sector organisations
- Members of the public.

4.0 Options

To ensure placing market restrictions on several single-use plastic products is the most appropriate approach for Scotland, two different policy options are under consideration.

21. Each option is assessed against the following strategic objectives:
 - Reduce the volume of plastic waste created
 - Reduce the amount of plastic waste entering our rivers, lochs and seas
 - Reduce the number of products littered where reusable substitutes exist
 - Encourage wider behaviour change around materials
22. The products, to which the options apply, are aligned with those included in Article 5 of Directive (EU) 2019/904, the European Union's Single-Use Plastics Directive. Note that a restriction on the sale of plastic stemmed cotton buds has already been implemented in Scotland.
 - Single-use plastic straws
 - Single-use plastic cutlery (including forks, knives, spoons, stirrers and chopsticks)
 - Single-use plastic plates
 - Single-use plastic balloon sticks
 - Single-use food containers, cups for beverages and other beverage containers made of expanded polystyrene, including their covers, caps and lids
 - Products made from oxo-degradable plastics.

Table 1. Consumption Volumes and Materials for Items under Consideration

Item		Consumption Volume ¹⁷ (million units per annum)	Materials (single-use)	Materials (multi-use)
Plastic straws	Large drinking straws	300	<ul style="list-style-type: none"> • Plastic • Paper • Laminated paper • Polylactic acid (PLA) 	<ul style="list-style-type: none"> • Metal • Glass • Bamboo • Silicone
	Beverage carton straws		<ul style="list-style-type: none"> • Plastic 	<ul style="list-style-type: none"> • Indeterminate
	Medical-enabling straws		<ul style="list-style-type: none"> • Plastic 	<ul style="list-style-type: none"> • Indeterminate
Plastic cutlery	Drink stirrers	9.9	<ul style="list-style-type: none"> • Plastic • Wood 	<ul style="list-style-type: none"> • Glass
	Cutlery	276	<ul style="list-style-type: none"> • Plastic (polystyrene or polypropylene) • Wood • Polylactic acid (PLA) • Plant starch • Bamboo • Bagasse • Paper 	<ul style="list-style-type: none"> • Metal • Bamboo • Thicker plastic

¹⁷ [Preliminary research to assess the impacts of a ban or restrictions in sale in Wales of items in the EU's single use plastics directive](#) (Welsh Government, 2020). Figures used for Wales were scaled to Scotland using 2018 population of 5.438 million.

Plastic plates (including trays and bowls)	50	<ul style="list-style-type: none"> • Unexpanded servo formed polystyrene and acrylic • Lightweight expanded polystyrene foam • Paper (compressed or layered card) • Plastic laminated paper plates • Bagasse • Bamboo • Aluminium foil • Palm leaf 	<ul style="list-style-type: none"> • Ceramic • Metal • Bamboo • Thicker plastic
Plastic balloon sticks	1.7	<ul style="list-style-type: none"> • Polypropylene • Bioplastic (few examples) • Cardboard 	<ul style="list-style-type: none"> • Indeterminate
Food containers made from expanded polystyrene, including their covers and lids	66	<ul style="list-style-type: none"> • Expanded polystyrene (EPS) • Extruded polystyrene (XPS) 	<ul style="list-style-type: none"> • Indeterminate
Cups and other beverage containers made from expanded polystyrene, including their covers and lids	45 ¹⁸	<ul style="list-style-type: none"> • Expanded polystyrene (EPS) • Extruded polystyrene (XPS) 	<ul style="list-style-type: none"> • Indeterminate
Oxo-degradable products	Uncertain but very small market share		

¹⁸ No beverage containers made of EPS/XPS have been identified other than cups.

Option 1: No policy change – business as usual

23. Option 1 is the baseline against which the costs and benefits of the implementation of Article 5 of the EU Single-Use Plastics Directive in Scotland will be assessed.
24. Under this scenario, it is assumed that retailers and the hospitality sector continue to voluntarily reduce avoidable plastics and find plastic-free alternatives. Before the COVID-19 pandemic, some manufacturers had already started using alternatives to plastic in their production of straws, cutlery, plates, balloon sticks and food and beverage containers, and communities in parts of Scotland have created “plastic-free” groups and events. The Scottish Government continues to support the wide array of voluntary actions that are taking place on disposable single-use plastics.
25. The recent COVID-19 pandemic has led to an increase in the use of at least some disposable items. Balanced against this, large sections of the hospitality sector have experienced considerably lower demand as a result of COVID-19 restrictions. Whether these trends result in an overall increase in the use of single-use plastics items for 2020 is still unclear. Further information will be collected and presented in the final BRIA. A programme of engagement by Zero Waste Scotland with manufacturers, wholesalers, retailers and end-users began in August 2020 and will be supplemented with the findings from the consultation process.
26. Disposable single-use plastic items are still imported, made, bought and used in Scotland. Significant numbers of these items occur as litter (thereby creating societal disamenity costs) and enter Scottish waters (threatening the health of the marine environment). Under this scenario, consumers would not be incentivised to limit the use and disposal of plastic items and manage them effectively, other than through their own motivations to protect the environment. Plastic items would, in many cases, remain cheaper than materials with less impact on our marine ecosystems.

Costs and Benefits

27. No additional financial costs or burdens will be placed on enforcement bodies in Scotland. However, market failure continues to exist because the true cost of plastic waste is not reflected in the price of single-use disposable plastic items. Plastic waste, pollution and litter continue to damage the terrestrial and marine environments and its wildlife which provide essential ecosystem services.
28. Further analysis of costs and benefits will be detailed in the final BRIA.

Option 2: Market restrictions on the specified single-use plastic items

29. Under this option, legislation will make it an offence to supply (and potentially manufacture) certain single-use disposable plastic products.
30. Through our Equalities Impact Assessment we will work with different groups across society to consider targeted exemptions to these restrictions for medical, health and wellbeing purposes as well as independent living.

Sectors and Groups affected

31. The following sectors and groups will be directly or indirectly impacted by the market restriction of affected single-use plastic products:
 - Producers and importers of affected single-use plastic products for the Scottish market
 - Retailers and wholesalers selling affected products onto the Scottish market
 - Hospitality (including pubs, clubs, bars, hotels, restaurants, cafes)
 - Consumers
 - Healthcare sector
 - Public sector
 - Third Sector
 - Waste Management Sector.
32. At this stage it is not apparent to what extent different sectors and groups would be impacted. The results from the public consultation process will be used to inform our understanding in this area.

Costs and Benefits

33. Society will benefit from a substantial reduction in the volume of plastic items occurring as litter (thereby creating societal amenity benefits) and ending up in Scottish rivers, lochs and seas. We intend to gather further information via this consultation and further policy development to enable us to quantify the impact of relevant single use plastic items. Any relevant quantifiable data will be included in the Final BRIA.
34. On a global basis it has been estimated¹⁹ that damage caused to marine ecosystems services are as high as \$2.5 trillion each year.

¹⁹ [Global Impacts of Marine Plastic](#)

35. Costs associated with the introduction of market restrictions on affected single-use items include enforcement costs for public bodies and we will work to quantify these with a view to their inclusion in the Final BRIA.
36. New costs for businesses may, for some items, also arise from a switch to alternative products, including either reusable items or products manufactured using different materials. In some cases, alternative single-use products may have other environmental impacts than those made from plastics, while reusable products could have a positive carbon balance, depending on how often they would be reused. Research undertaken for the EU²⁰ has indicated price differences between -0.007 euros and +0.146 euros for the specified single-use plastic items and their substitute products. The research was conducted in 2018, and used data sources from across the EU, including some from the UK. As a proportion of turnover to affected businesses, the costs of purchasing alternatives will, in many cases, be low. For example, based on the price differentials and consumption volumes for large drinking straws presented here, the additional national cost of switching would amount to £190,000. One key benefit of the policy is the reduction in the harm caused to Scotland's marine environment by single-use plastic items. Although, despite the relatively low cost to organisations, it is important to remember that the true cost of plastic waste is not reflected in the price of single-use disposable plastic items.

	Average Unit Cost €	
	Single-use plastic items	Single-use non-plastic items
Cutlery	0.053	0.098
Straws	0.012	0.092
Stirrers	0.014	0.007
Drinks cups	0.1	N/A
Drink cup lids	0.029	N/A
Food Containers	0.118	0.264

Further analysis of costs and benefits will be detailed in the final BRIA.

²⁰ [Assessment of measures - single use plastics](#)

5.0 Scottish Firms Impact Test

37. Stakeholders from all affected businesses will be consulted on the proposed changes. Up to 12 businesses of varying size will be consulted and the results published in the Final BRIA. This process will help to establish:
- Any anticipated impact on the competitiveness of Scottish companies within the UK, or elsewhere in Europe or the rest of the world.
 - The number of businesses and the sectors likely to be impacted by the change.
 - The likely cost or benefit to business.
38. The approach for engagement will consist of:
- (1) Questionnaires for completion by key business stakeholders
 - (2) Telephone interviews and email correspondence with selected representative organisations and associations.

6.0 Competition Assessment

39. This section assesses the potential impacts of the preferred option on competition among producers, wholesalers, retailers and importers in the Scottish market.
40. The assessment will follow the Competition and Market Authority guidelines²¹ which outline how to determine any competition impact. These guidelines recommend considering four key questions in order to assess whether a proposed policy would have an impact on competition. These are:

Will the measure directly or indirectly limit the number or range of suppliers?

Potential impacts on Scotland's single-use plastics import, manufacturing, wholesale and retail sectors will be included in the final BRIA.

Growing public concerns about plastic pollution and the impending implementation of the European Single-use Plastics Directive have already begun to drive voluntary moves towards functional alternatives to various single-use plastics products. This is expected to limit the impact of the measure on the number or range of suppliers. It is, however, acknowledged that the impact of the COVID-19 pandemic on the consumption of single-use plastics is still unclear.

²¹ [CMA](#)

Will the measure limit the ability of suppliers to compete?

The proposed legislation may limit the ability to compete of those suppliers whose main business is the supply of the affected single-use plastic products.

Growing public concerns about plastic pollution and the approaching European Single-use Plastics Directive have already begun to drive voluntary moves towards functional alternatives to various single-use plastics products. However, evidence of the effectiveness of these voluntary approaches is currently limited.

Will the measure limit suppliers' incentives to compete vigorously?

No.

Will the measure limit the choices and information available to consumers?

The introduction of market restrictions would limit the choices available to consumers as certain single-use plastic products would no longer be sold or would be less convenient to acquire. This impact would be limited as substitutes already exist for many of the affected single-use plastic products.

7.0 Consumer Assessment

- 41. In the light of new legislation, it is important to consider the impact on consumers of affected single-use plastic products. The Scottish Government definition of a consumer is "anyone who buys goods or digital content or uses goods or services either in the private or public sector, now or in the future".
- 42. Scottish Government specifies the following questions when determining the impact of proposed legislation on consumers:

Does the policy affect the quality, availability or price of any goods or services in a market?

A market restriction on the specified single-use plastic products would mean that affected single-use products would not be available to consumers.

The availability and price of suitable alternatives varies by item as outlined above and will be considered further in the final BRIA.

Does the policy affect the essential services market, such as energy or water?

No.

Does the policy involve storage or increased use of consumer data?
No.
Does the policy increase opportunities for unscrupulous suppliers to target consumers?
No.
Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?
No.
Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?
No.
8.0 Test Run of Business Forms
43. It is not envisaged that the introduction of these regulations will result in the creation of new forms for businesses or result in amendments of existing forms.
9.0 Digital Impact Test
44. Changes to policy, regulation or legislation can often have unintended consequences, should government fail to consider advances in technology and the impact this may have on future delivery. This digital impact test is a consideration of whether the changes being made can still be applied effectively should business/government processes change – such as services moving online. The below details the evaluation of the proposed market restrictions on current and future digital developments. Overall, it is viewed that the proposed legislation will not have an adverse impact on digital technology developments.
Table 2. Digital Impact Test Questionnaire
Question 1. Does the measure take account of changing digital technologies and markets?
Potential changes in digital technologies and markets are being accounted for during the development of this legislation.

<p>Question 2. Will the measure be applicable in a digital/online context?</p>
<p>Any restrictions would apply equally to both online and offline retailers, as they apply to all affected products that enter the Scottish market.</p>
<p>Question 3. Is there a possibility the measures could be circumvented by digital/online transactions?</p>
<p>As the affected single-use plastic products are sold by both traditional and online retailers, the legislation would also need to apply to online transactions in order to be effective and meet the stated objectives.</p>
<p>Question 4. Alternatively, will the measure only be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?</p>
<p>The legislation would be applicable equally to both digital and traditional businesses and would therefore not result in an adverse impact on traditional or offline businesses.</p>
<p>Question 5. If the measure can be applied in an offline and online environment will this in itself have any adverse impact on incumbent operators?</p>
<p>No.</p>
<p>10.0 Legal Aid Impact Test</p> <p>45. The Access to Justice Team at Scottish Government will be consulted but no impact on Legal Aid is expected.</p>
<p>11.0 Enforcement, Sanctions and Monitoring</p> <p>46. In order to achieve the objectives of market restrictions on several single use plastic products, enforcement, sanctions and monitoring systems will be put in place.</p>
<p>12.0 Implementation and Delivery Plan</p> <p>47. The Scottish Government will set out a timetable for implementation and will work closely with businesses involved in the manufacture, import, trade and sale of the single-use plastic products under consideration. This includes exploring opportunities for diversification and the manufacture of affected products using alternative materials which will help support more circular business opportunities such as providing reusable alternatives.</p>

13.0 Declaration and Publication

48. I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: 

Date: 12 October 2020

Minister's name Roseanna Cunningham

Minister's title Cabinet Secretary for Environment, Climate Change and Land Reform

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