

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

First Delegated Legislation Committee

## PLASTIC PACKAGING TAX (DESCRIPTIONS OF PRODUCTS) REGULATIONS 2021

*Monday 31 January 2022*

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**The Committee consisted of the following Members:**

*Chair:* MR VIRENDRA SHARMA

- |  |   |
|--|---|
| † Byrne, Liam ( <i>Birmingham, Hodge Hill</i> ) (Lab)              | † Oppong-Asare, Abena ( <i>Erith and Thamesmead</i> ) (Lab)     |
| Cryer, John ( <i>Leyton and Wanstead</i> ) (Lab)                   | † Qaisar, Ms Anum ( <i>Airdrie and Shotts</i> ) (SNP)           |
| † Farris, Laura ( <i>Newbury</i> ) (Con)                           | Sheerman, Mr Barry ( <i>Huddersfield</i> ) (Lab/Co-op)          |
| Graham, Richard ( <i>Gloucester</i> ) (Con)                        | Trickett, Jon ( <i>Hemsworth</i> ) (Lab)                        |
| † Hudson, Dr Neil ( <i>Penrith and The Border</i> ) (Con)          | † Twist, Liz ( <i>Blaydon</i> ) (Lab)                           |
| † Johnston, David ( <i>Wantage</i> ) (Con)                         | † Whately, Helen ( <i>Exchequer Secretary to the Treasury</i> ) |
| † Jones, Andrew ( <i>Harrogate and Knaresborough</i> ) (Con)       | † Williams, Craig ( <i>Montgomeryshire</i> ) (Con)              |
| † Kawczynski, Daniel ( <i>Shrewsbury and Atcham</i> ) (Con)        | Liam Laurence Smyth, <i>Committee Clerk</i>                     |
| † Mackrory, Cherilyn ( <i>Truro and Falmouth</i> ) (Con)           |   |
| † Mak, Alan ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) | † <b>attended the Committee</b>                                 |

# First Delegated Legislation Committee

Monday 31 January 2022

[MR VIRENDRA SHARMA *in the Chair*]

## Plastic Packaging Tax (Descriptions of Products) Regulations 2021

4.30 pm

**The Chair:** Before we begin, I would like to encourage Members to observe social distancing and wear masks.

**The Exchequer Secretary to the Treasury (Helen Whately):** I beg to move,

That the Committee has considered the Plastic Packaging Tax (Descriptions of Products) Regulations 2021 (S.I. 2021, No. 1417).

The statutory instrument seeks to tackle plastic packaging waste in the most effective way possible by making sure that the legislation is properly targeted. I will first speak briefly about the context of the legislation, before moving on to the plastic packaging tax and the statutory instrument itself.

The Government are committed to tackling plastic pollution. Plastic waste is a major environmental threat. Plastics do not decompose. Plastic waste can last centuries. Those centuries may be spent in landfill sites, but too often plastic ends up where it should not—littering the streets and countryside, piling up on beaches and in rivers, and caught on the tides in the world's oceans. In this country alone we generate nearly 5 million tonnes of plastic each year. In 2001 we recycled just a quarter of all our packaging waste. By 2017 that proportion had grown to 60%, but we can and should go further.

As hon. Members may recall, in 2018 the Government committed to introduce a tax on plastic packaging—a pledge we reiterated in our manifesto in 2019. This tax has already been legislated for in the Finance Act 2021. The tax will be charged at £200 per tonne of plastic packaging that is manufactured or imported in the UK, and which does not contain at least 30% recycled plastic. That will provide clear economic incentives for businesses to use recycled plastic over virgin plastic. This will in turn incentivise packaging producers to overcome the challenges of including recycled plastic in packaging. It will also incentivise increased collection and recycling of plastic waste, reducing the amount incinerated, dumped in landfill or strewn about so that it finds its way into the natural environment.

We estimate that the tax will lead to around 40% more recycled plastic being used in packaging in 2022-23 alone. Given that the use of new plastic generates more carbon than the use of recycled plastic, we estimate that the tax will save nearly 200,000 tonnes of carbon dioxide emissions in its first year, thereby achieving a dual purpose of reducing carbon emissions as well as reducing plastic waste.

This tax's introduction has been subject to a long process of engagement and deliberation, first through two consultations in 2019 and 2020, and then through three technical consultations on the necessary legislation,

including a consultation on the statutory instrument we are discussing. At every stage, the Government have listened to a range of organisations, including plastic packaging manufacturers, trade bodies across the plastics value chain and other interested stakeholders. Following these discussions and deliberations, in the Finance Act 2021 the Government introduced legislation setting out the tax's initial scope, based on a well-established definition of packaging. The definition is similar to that in the producer responsibility obligations set out by the Department for Environment, Food and Rural Affairs, which also seek to boost recycling rates.

The tax and the reforms to the producer responsibility obligations are designed to be complementary. However, unlike the producer responsibility obligations, this tax is charged at the point of manufacture and import, and has a different definition of packaging aimed at reducing the burdens on businesses while securing environmental aims. The definition of plastic packaging included in the Finance Act 2021 covers products designed to contain, handle, protect, deliver or present goods at any stage in the supply chain. It does not matter whether the product is used in the supply chain or by the end consumer. For example, bubble wrap and tape are both designed to be suitable in the supply chain, but can also be used by consumers. This definition ensures that items such as Tupperware and other homewares, which are not designed to be suitable for use in the supply chain, are not subject to the tax.

The primary legislation introduced in the Finance Act 2021 also exempts packaging products that are permanently set aside for a non-packaging function. By doing so, it makes sure that items that are manufactured or imported for a completely different purpose than a packaging function are not inadvertently captured within the tax. For example, plastic film that is applied to whiteboards used in teaching institutions will not be taxed, and nor would, for instance, plastic bottles made for an art installation.

I thank hon. Members and others who have taken the time to explain to Her Majesty's Revenue and Customs and the Treasury the highly specialised nature of silage film and its use for the production of silage. After careful analysis of additional information, I can advise that, although silage film is within the overall scope of the tax, it falls under an exemption for items where packaging is not the primary function. That is because its primary purpose is to enable the fermentation necessary for the production of silage, rather than the packaging of silage. Manufacturers and importers of silage film will still need to count it towards the 10 tonne threshold to determine whether they need to register and keep a record of it being set aside for a non-packaging function to support HMRC's compliance activity, but where that is done no tax will need to be paid.

Turning to the statutory instrument specifically, although it is critical that we tackle the scourge of plastic waste, we do not want to tax all plastic products. However, taken in isolation, the measures in the Finance Act 2021 would mean that the tax would apply to plastic products that do not typically contribute to the environmental harm that the tax is designed to address. Equally, the tax would not apply to single-use plastic packaging designed for the end consumer, such as bin bags or carrier bags. The 2021 Act allowed for additional regulations

to amend and improve the definition of packaging within the scope of the tax, and that is what these regulations do.

The statutory instrument will add to the scope of the tax packaging products that are specifically designed for a single-use packaging function by a user or consumer for goods or waste—for example, bin bags and carrier bags, as I mentioned, as well as nappy sacks and disposable plastic plates. In addition, the instrument will remove packaging that is designed for the long-term storage of goods from the scope of the tax. To fall within that category, packaging must be designed to be sold filled with goods and be reused for the same or similar goods—for example, a first aid box, a glasses case or a power tool case.

The instrument also removes from the scope of the tax products where the plastic is an integral part of the goods, without which the goods cannot reasonably be used or consumed. That removes products where it is not possible to reasonably separate the packaging from the item. To fall within that category, the packaging must be discarded with the goods or after the goods have been used or consumed. That includes printer cartridges, aerosol actuators and the ball of a roll-on deodorant. Finally, the instrument removes from the scope of the tax products that are designed for reuse in the presentation of goods, including shop fittings, display shelves and presentation stands.

These adjustments follow the substantial consultation and engagement with businesses that I mentioned, and will mean that the tax better fulfils its objective of incentivising the recycling of plastic and reduced plastic waste in a targeted way. I therefore commend the statutory instrument to the Committee.

4.38 pm

**Abena Oppong-Asare** (Erith and Thamesmead) (Lab): It is a pleasure to serve under your chairmanship, Mr Sharma, I believe for the first time. I thank the Minister for her comments about the regulations. As I have said before, the Opposition support the plastic packaging tax, as we believe that it is an important tool in tackling the crisis of plastic pollution that we face.

Before I come to the detail of the regulations and some of the concerns that we have about them, I will take the Minister back to the supposed aims of the plastic packaging tax. When the Government initially introduced the tax, in the last but one Finance Bill, they stated:

“The tax will encourage the use of recycled plastic instead of new plastic within packaging. It will create greater demand for recycled plastic, and in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration.”

That is an important principle. The Minister just mentioned that the tax is supposed to incentivise the use of recycled plastic, and in turn reduce the overall amount of virgin plastic packaging being produced and consumed. Logically, the tax would have the greatest impact were it extended to as many items as possible. It is therefore somewhat concerning to see three new exemptions being introduced at this stage.

As I said during the passage of the original legislation, we supported common-sense exemptions such as for medical packaging but believed that the list of exemptions

should be kept as short as possible. I want to take the new exemptions in turn, and ask the Minister some questions about each. The first is about packaging products designed primarily for storage, such as video game cases and toolboxes. In the explanatory notes, the Government say that those products

“do not typically contribute to plastic pollution.”

Can the Minister explain? Surely they are thrown away at some point and end up as plastic waste. The explanation also ignores the upstream environmental impact of producing the plastics. The Government have not said that they intend the tax to apply only to single-use items, so why is that justification now being used to exempt certain products?

The second exemption is for plastic packaging integral to the product being sold; the Government give examples such as printer cartridges, tea bags and mascara brushes. The Minister mentioned the encouragement of long-term storage of those goods, but will she give a further explanation, other than that, as to why they are being exempted—a bit more about the justification? We are concerned about whether the Government want greater use of recycled plastic in those products. They seem to be lowering their ambition significantly in this area.

Finally, the Government are exempting packaging used primarily for presentation. I make the same point as I did about storage items: it is not clear how these products do not contribute to plastic pollution through their production and disposal. Does the Minister not think that including them in the tax would encourage the use of recycled plastic or alternative materials?

The regulations add a new category to the scope of the tax: single-use plastic items used as packaging within the home, such as bin bags and disposable plates. We are happy to support that addition, but it takes us back to the point I made earlier. With these amendments, the Government seem to be changing the focus of the measure from encouraging recycled plastic and reducing plastic waste in general towards a narrower focus on single-use plastic. Is that correct? What assessment has the Treasury made about whether the changes will lead to more plastic waste being produced and how much?

The Minister mentioned that the definition was introduced to reduce the burden on businesses; I take this opportunity to raise a couple of points made by the British Plastics Federation and the Food and Drink Federation on behalf of their members, who will ultimately be subject to the tax. First, they say that there is confusion among businesses about exactly what products are eligible for the tax. Hopefully, the regulations will be helpful, but will the Minister consider whether HMRC needs to issue further detailed guidance?

I appreciate that the Minister mentioned that there has been a lot of consultation with relevant organisations, particularly with this SI, but there is an issue about the recycled content verification system, which ensures that imported packaging is subject to the same level of scrutiny as packaging produced in the UK. What is being done to ensure that UK producers are not being treated unfairly?

There are also concerns that, due to the lack of recycled materials in the UK, producers may struggle to meet the 30% threshold even when they wish to. There are specific issues in the food packaging sector, where there is limited regulatory approval for recycled products

[Abena Oppong-Asare]

to be used, which the Food and Drink Federation has raised. Finally, it also raises the issue of chemical recycling and a potential problem whereby the mass balance approach to certifying chemically recycled products will not be accepted for the purposes of the plastic packaging tax in April 2022. Can the Minister respond to those practical points from the industry? If she is unable to do so today, will she write to me?

I have said before that we want to see a plastic packaging tax that is ambitious and makes a real impact in reducing plastic pollution. Just last week, the Environmental Investigation Agency released a report saying that plastic pollution is now a global emergency nearly equivalent to that of climate change itself. It has shown that the toxic pollution resulting from over-production of virgin plastics and their lifecycles is irreversible, and that it directly undermines our health, drives biodiversity loss, exacerbates climate change and risks generating large-scale harmful environmental changes. For those reasons, we cannot afford to slow down the fight against plastic pollution. We hope that the plastic packaging tax can be part of that fight, but we need reassurances from the Minister that these changes will not undermine its impact.

4.46 pm

**Ms Anum Qaisar** (Airdrie and Shotts) (SNP): It is a pleasure to serve under your chairmanship, Mr Sharma. The amount of waste going to landfill in Scotland is at its lowest level since records began, but of course more needs to be done in order to maintain progress. Scotland has met and exceeded the EU target to reduce the quantity of biodegradable waste disposed of to landfill, with that waste continuing to fall to its lowest level on record. The Scottish Government are committed to matching or exceeding the standards set out by the EU single-use plastics directive, and are determined to accelerate progress to meet our ambitious waste reduction, recycling and climate change targets.

4.47 pm

**Helen Whately:** I will briefly respond to some of the points from the shadow Minister, the hon. Member for Erith and Thamesmead. I welcome her support for the tax and her overall support for the legislation, and I thank her for reminding us of the objectives, including our ambition to increase the use of recycled plastic over virgin plastic.

The hon. Lady raised concerns about some of the exemptions that I have outlined today, or about the targeting of the tax. Overall, we agree on the ambition to limit exemptions to ensure that the tax achieves its objective. The Government are determined to be pragmatic, but also to ensure that the tax achieves its objective of targeting those plastics that are particularly harmful to the environment. As I said in my opening speech, we carried out a huge amount of consultation and engagement with industry and those interested in this tax and legislation in order to get the targeting of the taxation right. That has led to the details of this statutory instrument, with the very specific exemptions that I outlined and the inclusion of certain single-use plastics that are used for disposal, for instance—bin bags and so on.

I say to the hon. Lady, who suggested that this was too narrow a focus, that this is a hugely ambitious tax, which sets out to change the incentives so that we see much greater use of recycled plastic and more plastic being recycled into the plastic supply chain, leading to—this picks up on her point about what assessment of impact there has been—our expectation that we will see a 40% increase in the use of recycled plastic following the introduction of the tax.

To pick up on the hon. Lady's point about whether there are concerns or confusion about the clarity of the regulations, I should say that substantial guidance has been set out on which products are in the scope of the tax and how it should be applied; the Government have worked closely with the sector and industry on preparing the details of that. Businesses that are concerned or uncertain can indeed contact HMRC, which will lead on the implementation.

**Abena Oppong-Asare:** Will the Minister give way?

**Helen Whately:** Let me cover the comments that the hon. Lady made, if she will give me a moment. She asked about imported packaging. I assure her that we are determined that there should be a level playing field, so the tax will apply equally to packaging manufactured in the UK and that imported into the UK.

The hon. Lady then asked about food packaging. We have consulted with the sector on that; we recognise some of the challenges but also the progress already being made to increase the use of recycled plastic in food packaging. We would not want to disincentivise further progress along those lines so we very much include that consideration, as with other examples of when it is more challenging to use recycled plastic.

Finally, the hon. Lady asked about chemical recycling; I am absolutely aware of questions from that part of the recycling sector. We are keen to see the use of chemically recycled plastic, which is really important for increasing the supply and quality of recycled plastic—especially some types of plastic that are hard to make with mechanically recycled plastic. The Government are investing in chemical recycling facilities to support the development of the technology. This legislation allows for chemically recycled plastic to contribute towards the 30% recycled plastic threshold for the purposes of the tax. I know that some have argued that that is not enough, but the mass balance approach that they are arguing for is a significant shift; it is about a chemically recycled plastic being attributed to packaging rather than contained in packaging. That is quite a fundamental change. We are looking at that but it would require new legislation, and we will not rush into that at this point.

In conclusion, this is an important piece of legislation, which will help this country fight the scourge of plastic pollution and cut carbon emissions by boosting recycling rates. Ultimately, it will play a part in unlocking economic benefits through the encouragement of green growth and innovation. Equally, the instrument will make sure that we tackle plastic waste in a proportionate and effective way, for the benefit of consumers and businesses alike.

**Abena Oppong-Asare:** I thank the Minister for answering the points I raised. I welcome the fact that detailed guidance will be provided by HMRC, particularly in relation to businesses. I appreciate that the Government have done extensive consultation with a number of stakeholders, but the ones I have engaged with represent

quite a number of businesses. What are the timescales when it comes to HMRC's publication of the guidance? There has been confusion about what businesses are eligible to do, and it is important that we get the issue right.

**Helen Whately:** I am happy to respond briefly. Guidance has in fact already been published; this particular guidance first came out in November, and the most recent update

was just a couple of days ago. I hope that answers the questions put by the businesses that the hon. Lady referred to; they can, of course, follow up with HMRC if they have any further questions.

*Question put and agreed to.*

4.54 pm

*Committee rose.*

