

# Plastics Bill

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Schedule – The Agency

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**B I L L**

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Require the Secretary of State to set, measure, enforce and report on targets for the reduction and recycling of plastic packaging; to require that such targets following the United Kingdom's withdrawal from the European Union at least match such targets set by the European Union; to establish enforcement mechanisms in respect of such targets and associated provisions; to make provision for support for the development of sustainable alternatives to plastic packaging; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Duty to meet plastic packaging targets**

It is a duty of the Secretary of State to take adequate steps to meet the plastic packaging targets in any given year.

**2 Plastic packaging targets**

- (1) It is the duty of the Secretary of State to set annual targets (“the plastic packaging targets”) to— 5
- (a) limit the production and use of plastic packaging; and
  - (b) increase recycling and other forms of waste recovery in relation to plastic packaging.
- (2) In setting targets under subsection (1), the Secretary of State must— 10
- (a) ensure that the UK meets or exceeds the targets on the management of plastic packaging and packaging waste set out under relevant European Union law, including in circumstances where the UK is not a member of the European Union;
  - (b) include a target which the production of plastics packaging in the UK should not exceed; 15
  - (c) include a target which the sale of plastic packaging in the UK should not exceed;

- 
- (d) include a target limiting the annual expenditure by public bodies on initiatives that support the production of plastic packaging from fossil fuels; and
    - (e) require that by 31 December 2025, all new plastic packaging produced and sold in the UK is able to be recycled. 5
  - (3) The targets set under subsection (2)(b) to (d) must be lower than the previous annual target under the relevant paragraph.
  - (4) Subsection (3) does not apply to the first annual targets set by the Secretary of State under subsection (1).
  - (5) In setting the targets in compliance with subsection (1), the Secretary of State shall – 10
    - (a) consult the Scottish Ministers, the Welsh Ministers, and the Department of the Environment in Northern Ireland;
    - (b) consult the Plastics Agency;
    - (c) consult persons with knowledge or experience relevant to the plastic packaging targets; 15
    - (d) consult such other persons as the Secretary of State thinks appropriate;
    - (e) issue a general invitation to make representations, in a manner likely in the Secretary of State’s opinion to bring the invitation to the attention of as large a class of persons who may wish to make representations as reasonably practicable; and 20
    - (f) take account of any representations made.
- 3 The Plastics Agency**
- (1) There shall be a body corporate known as the Plastics Agency (“the Agency”) which shall exercise the functions conferred on it by or under this Act or any other enactment. 25
  - (2) The Schedule to this Act (which makes provision for about the constitution of the Agency) shall have effect.
- 4 Function of the Agency**
- (1) The function of the Agency is to promote – 30
    - (a) initiatives that limit the production and use of plastics;
    - (b) the increase of recycling, reuse and other forms of waste recovery in relation to plastics; and
    - (c) initiatives to recycle, reuse, or otherwise recover waste plastics already in the environment. 35
  - (2) The Agency must monitor whether the Secretary of State –
    - (a) is complying with the duty to take adequate steps to meet the plastics packaging targets under section 1; and
    - (b) has set the plastics packaging targets in compliance with the requirements under section 2. 40
  - (3) Where the Agency has reasonable grounds to believe that the Secretary of State is not complying with a duty under 1 or 2 it may apply to the relevant court for an order to take such action as the court considers necessary to comply with the duty.

## 5 Plastics: fiscal strategy

- (1) The Secretary of State must within 6 months of the passing of this Act make arrangements for an independent review and report on the potential contribution of a Government fiscal strategy aimed at—
  - (a) reducing the production, sale and use of plastics and plastic packaging, and in particular, plastic bottles; and 5
  - (b) redirecting the costs of recycling, reuse and other forms of waste recovery from public authorities to the—
    - (i) producers of plastic packaging; and
    - (ii) retailers using plastic packaging. 10
- (2) The report and recommendations of the review under subsection (1) must be laid before the House of Commons within 12 months of the passing of this Act.
- (3) The laying of the report and recommendations under subsection (2) must be accompanied by a statement by the Secretary of State responding to each proposal of the independent review under subsection (1). 15

## 6 General duty and guidance in relation to plastic packaging

- (1) In exercising its functions and insofar as is consistent with the proper exercise of those functions, a public authority must have regard to—
  - (a) limiting the production and use of plastics;
  - (b) increasing recycling, reuse, and other forms of waste recovery in relation to plastics; and 20
  - (c) removing plastics already in the environment for the purpose of recycling, reusing or applying another form of waste recovery to the plastics.
- (2) The Secretary of State must provide guidance to public authorities as to fulfilling their duty under subsection (1). 25
- (3) Guidance under this section may include (but is not limited to) the following measures—
  - (a) enabling schools, hospitals and other providers of public services to reduce their plastic use; 30
  - (b) schemes which allow individuals to refill reusable water bottles;
  - (c) the provision of public water fountains;
  - (d) schemes which promote removing plastics and other waste from public spaces; and
  - (e) schemes which promote the return of plastics to persons who provided or otherwise sold the plastics for the purpose of recycling, reusing or applying another form of waste recovery to the plastics. 35
- (4) Before giving guidance under this section, the Secretary of State must consult—
  - (a) the Scottish Ministers, the Welsh Ministers, and the Department of the Environment in Northern Ireland, 40
  - (b) the Plastics Agency, and
  - (c) such other persons as the Secretary of State thinks appropriate.
- (5) The Secretary of State must publish any guidance given under this section as soon as reasonably practicable after giving the guidance. 45

- (6) The power to give guidance under this section includes the power to vary or revoke it.
- (7) In discharging its functions, a public authority must have regard to guidance given under this section.

## 7 Sustainable alternatives to plastic packaging 5

- (1) The Secretary of State must promote –
- (a) research on matters relevant to the management of plastic packaging and packaging waste;
  - (b) the use of such research by –
    - (i) public authorities; 10
    - (ii) plastic packaging manufacturers;
    - (iii) retailers or others who use plastic packaging; and
    - (iv) such other persons who seem to the Secretary of State to be relevant.
- (2) The Secretary of State may by regulations made by statutory instrument make provision for – 15
- (a) the establishment of a scheme to facilitate and encourage research by higher education institutions and others into sustainable alternatives to plastic packaging;
  - (b) the establishment of a scheme to facilitate and encourage the use of sustainable alternatives to plastic packaging; and 20
  - (c) *the administration and financing of such schemes.*
- (3) Regulations under this section may, in particular –
- (a) set out the conditions that must be satisfied for a material to be considered a sustainable alternative to plastic packaging; 25
  - (b) *make provision for persons involved in the research, development or use of sustainable alternatives to plastic packaging to be made payments;*
  - (c) *make provision for the calculation of such payments; and*
  - (d) *authorise the Secretary of State to make payments.*
- (4) A statutory instrument containing regulations under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament. 30

## 8 Interpretation

In this Act –

- “fossil fuel” has the same meaning as in the Energy Act 2013;
- “higher education institution” has the same meaning as in the Higher Education and Research Act 2017; 35
- “plastic” means a synthetic polymeric substance that can be moulded, extruded or physically manipulated into various solid forms and that retains its final manufactured shape during use in its intended applications; 40
- “plastic packaging” means all products which are –
- (a) used for the containment, protection, handling, delivery and presentation of goods; and
  - (b) partly or wholly composed of plastic;
- “public authority” means – 45

- (a) a Minister of the Crown;
  - (b) a public body (including a government department, a devolved authority, and a local authority);
  - (c) a person holding an office –
    - (i) under the Crown, 5
    - (ii) created or continued in existence by a public general Act, or
    - (iii) the remuneration in respect of which is paid out of money provided by Parliament;
- “recycle” means the reprocessing in a production process of the waste materials of a plastic product for the original purpose or for other purposes; 10
- “reuse” means any operation by which a plastic product, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived; 15
- “relevant court” means –
- (a) in England and Wales, the High Court;
  - (b) in Northern Ireland, the High Court of Justice;
  - (c) in Scotland, the Court of Session; and 20
- “relevant European Union law” means European Parliament and Council Directive 94/62/EC on packaging and packaging waste (as amended) and any subsequent European Union legislation setting out targets on the management of plastic packaging and packaging waste.
- 9 Extent, commencement, and short title** 25
- (1) This Act extends to the whole of the United Kingdom.
  - (2) This Act comes into force three months after the day on which it is passed.
  - (3) This Act may be cited as the Plastics Act 2018.

## SCHEDULE

Section 3

## THE AGENCY

*Status*

- 1 The Agency shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Agency's property is not to be regarded as the property of, or property held on behalf of, the Crown. 5

*General powers*

- 2 Subject to any directions given by the Secretary of State, the Agency may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions. 10

*General duty*

- 3 It is the duty of the Agency to carry out its functions effectively, efficiently and economically.

*Membership*

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- 4 The Agency is to consist of a chair and other members appointed by the Secretary of State.

*Staff*

- 5 The Agency must appoint a person to be its chief executive.
- 6 The Agency may appoint such staff and on such conditions of service as it thinks fit. 20

*Appointment procedures*

- 7 The Secretary of State may by regulations made by statutory instrument make provisions as to –
- (a) the appointment of the chair and other members of the Agency (including the number, or limits on the number, of members who may be appointed and any conditions to be fulfilled for appointment); 25
- (b) the tenure of office of the chair and other members of the Agency (including the circumstances in which they cease to hold office or are suspended from office); 30
- (c) the appointment of, constitution of and exercise of functions by committees and sub-committees of the Agency.

- 8 Before making regulations under paragraph 7, the Secretary of State must consult the Scottish Ministers, the Welsh Ministers, and the Department of the Environment in Northern Ireland.

*Terms of appointment*

- 9 The Secretary of State may by regulations made by statutory instrument make provision as to the terms on which the chair and other members are to be appointed. 5
- 10 The regulations may in particular make provision as to –
- (a) the period for which they are to hold office;
  - (b) their eligibility for re-appointment; 10
  - (c) remuneration and allowances; and
  - (d) circumstances in which their membership is to be suspended or terminated.

*Money*

- 11 *The Secretary of State may by regulations made by statutory instrument make provision for the payment of a levy for the support of the Agency.* 15
- 12 *The levy under regulations in paragraph 11 –*
- (a) *may not be imposed so as to lead to payments totalling an amount greater than the costs incurred or to be incurred by the Agency,*
  - (b) *may only be charged on –* 20
    - (i) *the producers of plastic packaging, and*
    - (ii) *retailers using plastic packaging.*
- 13 *The Secretary of State may pay to the Agency out of money provided by Parliament such sums as the Secretary of State thinks appropriate.*
- 14 *The Secretary of State may make loans to the Agency.* 25
- 15 The Agency must keep accounts in such form as the Secretary of State decides.
- 16 The Agency must prepare annual accounts in respect of each financial year to which the annual accounts relate.
- 17 Before the end of the specified period following each financial year to which the annual accounts relate the Agency must send a copy of the annual accounts to – 30
- (a) the Secretary of State;
  - (b) the Comptroller and Auditor General.
- 18 The Comptroller and Auditor General must – 35
- (a) examine, certify and report on the annual accounts;
  - (b) lay a copy of the accounts and of his report before each House of Parliament.
- 19 The specified period is such period as the Secretary of State directs.
- 20 The financial year is – 40
- (a) the period starting on the day the Agency is established and ending on the next 31st March;

(b) each succeeding period of 12 months.

*Annual report*

- 21 (1) The Agency must as soon as possible after the end of each financial year prepare and send to the Secretary of State a report on the carrying out of its functions during that year. 5
- (2) The Secretary of State must lay before each House of Parliament a copy of every report sent to him under sub-paragraph (1).

*Regulations*

- 22 With the exception of a statutory instrument made under regulation 11, a statutory instrument containing regulations under this Schedule is subject to annulment in pursuance of a resolution of either House of Parliament. 10
- 23 A statutory instrument under regulation 11 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

# Plastics Bill

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## B I L L

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