



STATUTORY INSTRUMENTS.

S.I. No. 516 of 2021



EUROPEAN UNION (SINGLE USE PLASTICS) (NO. 2) REGULATIONS
2021

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I, Eamon Ryan, Minister for the Environment, Climate and Communications, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Directive (EU) 2019/904/EC of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastics on the environment ¹ hereby make the following Regulations:

PART I

General Provisions

Citation

1. (1) These Regulations may be cited as the European Union (Single Use Plastics) (No. 2) Regulations 2021.

(2) The European Union (Single Use Plastics) Regulations 2021 (No. 326 of 2021) are hereby revoked.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires –

“Agency” means the Environmental Protection Agency established by section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“authorised person” means a person who is appointed an authorised person in accordance with section 5(1) of the Principal Act;

“Commission Guidelines” means Commission guidelines on single-use plastic products issued in accordance with Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment (2021/C 216/01) developed by the European Commission pursuant to Article 12 of the Directive ²;

“Directive” means Directive (EU) 2019/904/EC of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment³;

“Directive 2008/98/EC” means Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives ⁴;

¹ OJ No. L 155, 12.6.2019, p. 1

² OJ No. C 216, 7.6.2021, p. 1

³ OJ No. L 155, 12.6.2019, p. 1

⁴ OJ No. L 312, 22.11.2008, p. 3

“EU Regulation” means Commission Implementing Regulation (EU) 2020/2151 of 17 December 2020 laying down rules on harmonised marking specifications on single-use plastic products listed in Part D of the Annex to Directive (EU) 2019/904 of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment⁵;

“local authority” has the same meaning as it has in section 5(1) of the Principal Act;

“Part A products” means the products set out in Part A of the Annex to these Regulations and the items listed in Part A shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“Part B products” means the products set out in Part B of the Annex to these Regulations and the items listed in Part B shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“Part C products” means the products set out in Part C of the Annex to these Regulations and the items listed in Part C shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“Part D products” means the products set out in Part D of the Annex to these Regulations and the items listed in Part D shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“Part E products” means the products set out in Part E of the Annex to these Regulations and the items listed in Part E shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“Part F products” means the products set out in Part F of the Annex to these Regulations and the items listed in Part F shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“Part G products” means the products set out in Part G of the Annex to these Regulations and the items listed in Part G shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“person” shall be construed as including a producer;

⁵ *OJ No. L 428, 18.12.2020, p. 57*

“plastic” shall be construed in accordance with the Directive, including any guidelines published by the European Commission in accordance with Article 12 of the Directive;

“plastic cap or lid” excludes metal caps or lids with plastic seals;

“Principal Act” means the Waste Management Act 1996 (No. 10 of 1996);

“Regulations of 2011” means the European Communities (Waste Directive) Regulations 2011 – 2020 (**S.I. No. 126 of 2011 and S.I. No. 323 of 2020**)

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Scope

3. These Regulations apply to single-use plastic products listed in the Annex, to products made from oxo-degradable plastic and to fishing gear containing plastic.

PART II

Amendment of the Principal Act

4. The Principal Act is amended by the insertion after section 10B of –

“10C. — (1) Where an authorised person has reasonable grounds for believing that a person has committed an offence under the European Union (Single Use Plastic) (No. 2) Regulations 2021 and the offence is to be prosecuted summarily the authorised person may give to the person a notice in writing (in this Act referred to as a “fixed payment notice”) in the prescribed form stating that —

(a) the person is alleged to have committed that offence,

(b) the person may, during the period of 21 days beginning on the date of the notice make to the local authority concerned or to the Agency, as appropriate, at the address specified in the notice a payment of € 2,000 in respect of that offence, accompanied by the notice,

(c) the person is not obliged to make the payment specified in the notice, and

(d) a prosecution of the person to whom the notice is given in respect of the offence will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of that offence will be instituted.

(2) Where a fixed payment notice is given —

- (a) the person to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the local authority concerned or to the Agency, as appropriate, at the address specified in the notice, the payment specified in the notice,
 - (b) the local authority concerned or the Agency, as appropriate, shall receive the payment and shall, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it and the local authority concerned or the Agency, as appropriate, shall retain the money for disposal in accordance with *subsection (4)*, and
 - (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.
- (3) In proceedings for an offence under the European Union (Single Use Plastic) (No. 2) Regulations 2021 it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.
- (4)(a) Moneys received by a local authority pursuant to the giving of a fixed payment notice shall be lodged to the credit of the local fund maintained by the local authority concerned pursuant to, and in accordance with, section 97 of the Local Government Act 2001 and expended in accordance with that section.
- (b) Moneys received by the Agency pursuant to the giving of a fixed payment notice shall be disposed of in a manner determined by the Agency with the prior consent of the Minister and the Minister for Public Expenditure and Reform.”

PART III

Prohibitions and rules for use

Prohibition on placing certain products on the market in the State

Part B and Part D products

5. No producer shall place on the market of the State—
- (a) a product listed in Part B of the Annex to these Regulations,
 - (b) a product made in whole or in part of oxo-degradable plastic, or

- (c) a product listed in Part D of the Annex that does not comply with the rules on harmonised marking specifications set out in the EU Regulation.

Part C products

6. (1) From 3 July 2024 no producer shall place on the market a product listed in Part C of the Annex that has a cap or lid unless the cap or lid is designed and manufactured so that the cap or lid remains attached to the container during the container's intended use stage.

(2) A product listed in Part C of the Annex that has a cap or lid that meets harmonised standards, or parts thereof, published in the Official Journal of the European Union pursuant to the Directive shall be presumed to comply with paragraph (1).

Part F products

7. (1)(a) From 1 January 2025 no producer shall place on the market a beverage bottle listed in Part F of the Annex that is manufactured from polyethylene terephthalate (PET) as the major component unless the beverage bottle contains 25% of recycled plastic, calculated as an average for all PET bottles placed on the market in the State.

(b) From 1 January 2030 no producer shall place on the market a beverage bottle listed in Part F of the Annex unless the beverage bottle contains 30% recycled plastic calculated as an average for all such beverage bottles placed on the market in the State.

Extended producer responsibility schemes

8. (1)(a) Subject to paragraph (6) no producer of –

- (i) the products listed in Part E, or
- (ii) fishing gear containing plastic,

shall place such products on the market unless they are a body implementing an extended producer responsibility scheme, or are a member of an extended producer responsibility scheme, established in accordance with this Regulation.

(b) A producer of the products listed in Section 1 of Part E shall be deemed to have met the requirements of this Regulation if he or she is a member of an approved body pursuant to European Union (Packaging) Regulations 2014 (S.I. 282 of 2014) that fulfils all the obligations of an approved body under this Regulation.

(2) The implementation of an extended producer responsibility scheme by an approved body or membership of an approved body shall not provide any

exemption from the provisions of these Regulations, unless specifically provided.

(3) An extended producer responsibility scheme established for the purposes of providing an effective system for the management of the waste stage of the life cycle of the single use plastic products listed in Part E of the Annex or for fishing gear containing plastic shall be deemed to be an extended producer responsibility scheme established in accordance with Regulation 30 of the Regulations of 2011.

(4) (a) An extended producer responsibility scheme established under paragraph (3) shall put in place awareness raising measures to inform customers and incentivise responsible consumer behaviour with the objective of reducing litter from products listed in the Annex and fishing gear containing plastic.

(b) Such awareness raising measures shall include, as regards products in Part G of the Annex and fishing gear containing plastic –

- (i) the availability of re-useable alternatives, re-use systems and waste management options for those products
- (ii) best practices in sound waste management carried out in accordance with Article 13 of Directive 2008/98/EC;
- (iii) the impact of littering and other inappropriate waste disposal of those products on the environment, including the marine environment; and
- (iv) the impact of inappropriate means of waste disposal of those products on the sewer network.

(c) An extended producer responsibility scheme that is established before these Regulations come into effect in accordance with Regulation 30 of the Regulations of 2011 for the purposes of providing for the recovery of packaging and packaging waste of the single use plastic products listed at point 9 in Part G of the Annex shall, in so far as such measures are not already a responsibility of the scheme, in addition to its other obligations, put in place the awareness raising measures specified in paragraph (b) to inform customers and incentivise responsible consumer behaviour with the objective of reducing litter from those products.

(5) An extended producer responsibility scheme established under paragraph (3) shall meet the minimum requirements for such a scheme provided in Regulation 30A of the Regulations of 2011, and shall provide that the following costs shall be covered in addition to those required to be covered under Regulation 30A (4) –

(a) With respect to the products listed in Section I of Part E of the Annex –

- (i) the cost of waste collection for those products that are discarded in public collection systems, including the infrastructure and its operation and the subsequent transport and treatment of that waste; and
- (ii) the costs of cleaning up litter resulting from those products.

- (b) With respect to the products listed in Section II and III of Part E of the Annex-
 - (i) the costs of clearing up litter resulting from those products and the subsequent transport and treatment of that waste; and
 - (ii) the costs of data gathering and reporting as set out in the approval.
 - (c) With respect to the products listed in Section III of Part E of the Annex-
 - (i) the cost of waste collection for those products that are discarded in public collection systems, including the infrastructure and its operation; and
 - (ii) the costs of the infrastructure may include the setting up of specific infrastructure for the waste collection of those products, including appropriate waste receptacles in common litter hotspots.
 - (d) With respect to fishing gear containing plastic-
 - (i) the costs of the separate collection of waste fishing gear containing plastic that has been delivered to adequate port facilities in accordance with Directive (EU) 2019/9883 or to equivalent collection systems;
 - (ii) the costs of its subsequent transport and treatment; and
 - (iii) the cost of meeting the annual collection rate set by the Minister.
- (6) (a) The costs of cleaning up litter resulting from the products listed in Part E, Section I of the Annex provided in this Regulation shall apply to those products from 5 January 2023.
- (b) The provisions of this Regulation shall apply to fishing gear containing plastic from 31 December 2024.
- (c) The provisions of this Regulation shall apply to the products listed in Part E, Section II of the Annex from 31 December 2024.
- (d) The provisions of this Regulation shall apply to the products listed in Part E, Section III of the Annex from 5 January 2023.
9. (a) A producer which is established in the State that proposes to sell a product that is listed in Part E of the Annex or fishing gear in a Member State in which it is not established shall, before placing such a product on the market in that other Member State, appoint an authorised representative.
- (b) An authorised representative for the purpose of paragraph (a) shall be a legal or natural person established in that other Member State who is responsible for fulfilling the obligations of a producer under the Directive in that other Member State.

Monitoring and Reporting

10. (1) The Agency shall monitor the single-use plastic products listed in Part A of the Annex that are placed on the market.

- (2) (a) The Agency shall, for each year, report on the following matters—
- (i) beginning for the year 2022 –
 - (I) data on the single-use plastic products listed in Part A of the Annex that have been placed on the market in the State each year, to demonstrate the consumption reduction in accordance with Article 4(1) of the Directive; and
 - (II) data on the single-use plastic products listed in Part F of the Annex that have been separately collected in the State each year, to demonstrate the attainment of the separate collection targets in accordance with Article 9(1) of the Directive,
 - (ii) beginning for the year 2023 –
 - (I) information on the recycled content in beverage bottles listed in Part F of the Annex to demonstrate the attainment of the targets laid down in Article 6(5) of the Directive; and
 - (II) data on the quantity of post-consumption waste of single-use plastic listed in Section III of Part E of the Annex that has been collected in accordance with Article 8(3) of the Directive.
- (b) The report under paragraph (a) shall be accompanied by a quality check report.
- (c) The Agency shall provide the reports specified in paragraph (a) in a timely manner to enable the Minister to provide the Commission with the reports within 18 months of the end of the reporting year for which the data and information are collected.
- (d) Data and information reported by the Agency to the Minister under this paragraph shall be in compliance with implementing acts adopted by the Commission under Article 13(4) of the Directive.

Provision of information

11. The Minister may oblige an extended producer responsibility scheme, established or operating under Regulation 8, to provide the Agency with any data necessary to enable the Agency to fulfil its reporting function in accordance with Regulation 10.

Part IV

Enforcement

12. (1) The Agency and the relevant local authority, as appropriate, shall be responsible for the enforcement of these Regulations, including the

verification of the targets established in accordance with any implementing act adopted by the European Commission pursuant to the last paragraph of Article 6(5) of the Directive.

(2) An authorised person (within the meaning of the Principal Act) may exercise the powers conferred on such a person under section 14 of the Principal Act for the purposes of enforcing Regulations 5, 6(1), 7(1), 8(1)(a) and 9 of these Regulations and, accordingly, a reference in that Act to that Act includes a reference to these Regulations.

Part V

Offences and penalties

13. (1) A person who contravenes Regulation 5, 6(1), 7(1), 8(1)(a) or 9 shall be guilty of an offence.

(2) A person guilty of an offence under Regulation 5, 6(1), 7(1), 8(1)(a) or 9 is liable -

- (a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 3 years, or both.

14. Proceedings for an offence under these Regulations that is being prosecuted summarily may be brought and prosecuted by the local authority concerned or the Agency, as appropriate.

15. Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

16. (1) Notwithstanding the provisions of section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence that is being prosecuted summarily on account of a contravention or failure to comply with any Regulation of these Regulations may be commenced—

- (a) at any time within 12 months from the date on which the offence was committed, or
- (b) at any time within 6 months from the date on which evidence sufficient, in the opinion of the person by whom the proceedings are initiated, to justify the proceedings, comes to such person's knowledge,

whichever is the later: provided that no such proceedings shall be initiated later than 2 years from the date on which the offence concerned was committed.

(2) Without prejudice to paragraph (1), a certificate signed by or on behalf of the person initiating the proceedings for an offence on account of contravention or failure to comply with any regulation of these regulations as to the date on which evidence relating to the offence came to his or her knowledge shall be *prima facie* evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purposes of this paragraph and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate, unless the contrary is shown.

ANNEX

PART A

Single use plastic products covered by Regulation 10 on monitoring and reporting of consumption reduction

- (1) Cups for beverages, including their covers and lids;
- (2) Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:
 - (a) is intended for immediate consumption, either on-the-spot or take-away,
 - (b) is typically consumed from the receptacle, and
 - (c) is ready to be consumed without any further preparation, such as cooking, boiling or heating,including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food.

PART B

Single use plastic products covered by Regulation 5 on prohibition on placing certain products on the on the market

- (1) Cotton bud sticks, except if they fall within the scope of Council Directive 90/385/EEC or Council Directive 93/42/EEC;
- (2) Cutlery (forks, knives, spoons, chopsticks);
- (3) Plates;
- (4) Straws, except if they fall within the scope of Directive 90/385/EEC or Directive 93/42/EEC;

- (5) Beverage stirrers;

- (6) 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, including the mechanisms of such sticks;

- (7) Food containers made of expanded polystyrene, i.e. receptacles such as boxes, with or without a cover, used to contain food which:
 - (a) is intended for immediate consumption, either on-the-spot or take-away,
 - (b) is typically consumed from the receptacle, and
 - (c) is ready to be consumed without any further preparation, such as cooking, boiling or heating, including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food;

- (8) Beverage containers made of expanded polystyrene, including their caps and lids;

- (9) Cups for beverages made of expanded polystyrene, including their covers and lids.

PART C

Single use plastic products covered by Regulation 6 on product requirements

Beverage containers with a capacity of up to three litres, i.e. receptacles used to contain liquid, such as beverage bottles including their caps and lids and composite beverage packaging including their caps and lids, but not:

- (a) glass or metal beverage containers that have caps and lids made from plastic,
- (b) beverage containers intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 of the European Parliament and of the Council ⁽³⁾ that is in liquid form.

PART D

Single use plastic products covered by Regulation 5(c) on marking requirements for placing on the market

- (1) Sanitary towels (pads), tampons and tampon applicators;

- (2) Wet wipes, i.e. pre-wetted personal care and domestic wipes;
- (3) Tobacco products with filters and filters marketed for use in combination with tobacco products;
- (4) Cups for beverages

PART E

Single use plastic products covered by Regulation 8 on Extended Producer Responsibility

Section I. Single use plastic products covered by Regulation 8(5)(a)

- (1) Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:
 - (a) is intended for immediate consumption, either on-the-spot or take-away,
 - (b) is typically consumed from the receptacle, and
 - (c) is ready to be consumed without any further preparation, such as cooking, boiling or heating, including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food;
- (2) Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation;
- (3) Beverage containers with a capacity of up to three litres, i.e. receptacles used to contain liquid such as beverage bottles including their caps and lids and composite beverage packaging including their caps and lids, but not glass or metal beverage containers that have caps and lids made from plastic;
- (4) Cups for beverages, including their covers and lids;
- (5) Lightweight plastic carrier bags as defined in point 1c of Article 3 of Directive 94/62/EC.

Section II. Single use plastic products covered by Regulation 8(5)(b)

- (1) Wet wipes, i.e. pre-wetted personal care and domestic wipes;

- (2) Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers.

Section III. Single use plastic products covered by Regulation 8(5)(c)

Tobacco products with filters and filters marketed for use in combination with tobacco products.

PART F

Single use plastic products covered by Regulation 7 on minimum recycled content for placing on the market and by Regulation 10 for reporting on minimum recycled content and separate collection

Beverage bottles with a capacity of up to three litres, including their caps and lids, but not:

- (a) glass or metal beverage bottles that have caps and lids made from plastic,
- (b) beverage bottles intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 that is in liquid form.

PART G

Single use plastic products covered by Regulation 8(4) on awareness raising

- (1) Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:
- (a) is intended for immediate consumption, either on-the-spot or take-away,
- (b) is typically consumed from the receptacle, and
- (c) is ready to be consumed without any further preparation, such as cooking, boiling or heating, including food containers used for fast food or other meal ready for immediate consumption, except beverage containers, plates and packets and wrappers containing food;
- (2) Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation;

- (3) Beverage containers with a capacity of up to three litres, i.e. receptacles used to contain liquid such as beverage bottles including their caps and lids and composite beverage packaging including their caps and lids, but not glass or metal beverage containers that have caps and lids made from plastic;
- (4) Cups for beverages, including their covers and lids;
- (5) Tobacco products with filters and filters marketed for use in combination with tobacco products;
- (6) Wet wipes, i.e. pre-wetted personal care and domestic wipes;
- (7) Balloons, except balloons for industrial or other professional uses and applications that are not distributed to consumers;
- (8) Lightweight plastic carrier bags as defined in point 1c of Article 3 of Directive 94/62/EC;
- (9) Sanitary towels (pads), tampons and tampon applicators.



GIVEN under my Official Seal,
8 October 2021.

EAMON RYAN
Minister for the Environment, Climate and
Communications.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These regulations further transpose 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. In summary, they introduce the following measures:

- A restriction on placing the items contained in Part B of the Annex to the regulations on the market in Ireland.
- A restriction on placing the items contained in Part D of the Annex to the regulations on the market in Ireland unless they contain the marking set out in Commission Implementing Regulation (EU) 2020/2151 of 17 December 2020.
- A restriction on placing any product containing oxo-degradable plastic on the market in Ireland.
- A restriction on placing a single use plastic beverage container up to 3litres in size on the market in Ireland from 3 July 2024 unless its lid or cap remains attached to the beverage container.
- A restriction on placing single use plastic PET beverage bottles up to 3 litres in size on the market in Ireland from 1 January 2025 unless they contain a minimum of 25% recycled content.
- A restriction on placing any single use plastic beverage bottles up to 3 litres in size on the market in Ireland from 1 January 2030 unless they contain a minimum of 30% recycled content.
- The introduction of an Extended Producer Responsibility Scheme for tobacco products from 1 January 2023.
- The introduction of Extended Producer Responsibility Schemes for balloons, wet wipes and fishing gear from 31 December 2024.
- Making the existing packaging Extended Producer Responsibility Scheme in Ireland responsible for litter clean up costs of the single use plastic packaging items covered by the Regulations from 1 January 2023.
- Making all Extended Producer Responsibility Schemes within the remit of the Regulations responsible for creating awareness about reusable alternatives and best waste management practices for the products they place on the market.

Enforcement provisions and EU reporting requirements are also contained in the regulations.

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