

STATES OF JERSEY



Jersey

DRAFT SINGLE-USE PLASTICS ETC. (RESTRICTIONS) (JERSEY) LAW 202-

**Lodged au Greffe on 8th June 2021
by the Minister for Infrastructure
Earliest date for debate: 20th July 2021**

STATES GREFFE



Jersey

DRAFT SINGLE-USE PLASTICS ETC. (RESTRICTIONS) (JERSEY) LAW 202-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Infrastructure has made the following statement –

In the view of the Minister for Infrastructure, the provisions of the Draft Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy K.C. Lewis of St. Saviour**
Minister for Infrastructure

Dated: 1st June 2021

REPORT

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1.0 Executive Summary

In June 2020, the States Assembly agreed [P.64/2020](#) “*Banning the sale of single-use carrier bags*” that aimed to reduce waste and increase reuse by agreeing to bring forward legislation for debate that would remove single use bags and set a minimum price for ‘bags for life.’

The aim was to encourage a ‘bring your own bag’ culture and help to change behaviour away from single use consumption and disposal. This supports Jersey on its path to being a more sustainable place to live and work and contributes to the carbon neutral agenda by reducing the global carbon emissions associated with the production and transport of plastic bags. The States Assembly declared a climate emergency in 2019 recognising the need to reduce global emissions of carbon that cause global climate change.

In P.64/2020, a detailed technical specification of the bags included in and exempt from the ban was provided to the States Assembly. The future ban intended to cover lightweight plastic carrier bags, very lightweight plastic carrier bags and paper carrier bags. Removing these single use items from the supply chain supports a shift towards bags that can be reused multiple times and can be recycled at the end of their useful life.

Paper carrier bags are included in the legislation so they do not become an alternative to plastic bags. This would not achieve the desired behaviour change and would maintain a throwaway culture.

Consultation with the retail sector was required to inform the minimum price set for bags for life and this was completed in September 2020. In addition to the minimum bag for life price, the consultation asked retailers for their views on other elements of the legislation including the implementation period and the inclusion of other avoidable single use items in the future, such as beverage cups and takeaway food containers.

The recommendation from the consultation was to set the bag for life price at 70p and the draft legislation includes this as the price, inclusive of GST (if applicable). This price is aligned to the national recommendation of 70p made in 2019 and reaffirmed in January 2021 by the [Environmental Investigation Agency and Greenpeace](#).

The consultation also evidenced the need for a number of industry exemptions to be included in the legislation. The issues raised were explored with Environmental Health, Customs and Immigration, the States Vet and Environmental and Consumer Protection. Guidance accompanying the legislation, states that the bags used to contain uncooked fish and fish products, prescription medicine or appliance, live fish or other aquatic creatures or goods in transport, such as at an airport, plane or ship are exempt.

The second supplementary issue raised by the consultation was the need for a paper bag for life to be included alongside the plastic bag for life in the minimum bag for life price.

Various retailers raised concerns regarding the potential ban of luxury paper bags and voiced the need to maintain their availability. Further investigation identified that these bags have the potential to be reused, although this is perhaps limited more by consumer behaviour than the bag's durability. Thus, a paper bag for life specification has been developed alongside the plastic bag for life definition, providing retailers with a choice of packaging.

The specification for a paper bag for life was developed in collaboration with bag suppliers and industry recyclers to reduce the environmental impact of this item and maximise the opportunity for reuse and recycling. A set of guidance notes will be developed for traders to aid procurement decisions as part of the implementation communications.

The final finding from the consultation was that retailers supported an extension of the legislation to reduce the use of other avoidable single use plastic items in the future. The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- has been drafted so that additional items can be banned in the future under this Law as required.

The Consultation did not identify a need for an implementation period of longer than the 6 months already specified. Once this Law is approved, the implementation period will be used to communicate with traders and shoppers. Resources to help traders make any required changes will be provided well in advance of the Law coming into effect.

The work that has been undertaken to bring forward the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- has involved a number of departments to ensure that the legislation includes the correct requirements to enable enforcement. The legislation will be enforced by Environmental and Consumer Protection with respect to the supply of restricted items and the price charged for bags for life and by Customs and Immigration with respect to the importation of banned items.

There is a resource and cost implication to this Law. Environmental and Consumer Protection require an additional resource and there is a cost to delivering the stakeholder communications required in the implementation period. The financial implication during the first year of the Law coming into effect are estimated at £60,170 and £33,670 for subsequent years.

2.0 Key guidance notes

2.1 Bags banned from importation and supply

The following items will be banned under the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202-:

- **Lightweight plastic carrier bags:** With or without handle, made of plastic with a wall thickness of 15 microns and above but less than 50 microns
- **Very lightweight plastic carrier bags:** With or without handle, made of plastic with a wall thickness of less than 15 microns and not meeting the “OK compost HOME” (or equivalent) certification
- **Paper carrier bags:** With or without handle, made of paper to a weight of 50 gsm and above but less than 170 gsm



Figure 1.0 Visual examples of banned bags

2.2 Bags that will have a minimum price

Traders wishing to continue to provide the following bags may do so, but the bags may only be supplied at the specified minimum price:

- **Plastic bag for life:** Carrier bag with or without handle, made of recyclable plastic, with a wall thickness of 50 microns or above;
- **Paper bag for life:** Carrier bag with or without handle, made of recyclable paper to a weight of 170 gsm or above.

The thickness of the bag for life has been specified to ensure the bag has durability for multiple uses. The bag must also be made of recyclable paper or plastic so that the bag can be recycled at the end of its useful life.

To support traders with procurement, resources will be provided that outline the specifications suitable for recycling. For example, paper bags should not be laminated as this makes them unacceptable for recycling.



Figure 2.0 Visual examples of bags to be supplied at a minimum price

2.3 Bags that are exempt

The following bags are exempt under the proposed legislation:

- **Very lightweight plastic carrier bags:** With or without handle, made of plastic with a wall thickness of less than 15 microns and meet the “OK compost HOME” (or equivalent) certification;
- **Paper ‘counter’ bags:** Paper bags, with or without a handle, which are less than 50gsm;
- **Integral product packaging:** A bag that is an integral part of the packaging in which goods are sealed prior to sale;
- **Gift bags:** Paper bags, with or without a handle, purchased for the intended purpose of gift wrapping only;
- **Bin liners, dog poo bags and nappy sacks:** Dog poo, nappy bags and bin liners purchased and used for their intended purpose.



Figure 3.0 Visual examples of bags that are exempt

2.4 Industry exemptions

The following exemptions are included for reasons relating to health, security and welfare.

Bags used to contain:

- uncooked fish and fish products;
- prescription medicine or appliance;
- live fish or other aquatic creatures;
- goods in transport, such as at an airport, plane or ship.

2.5 Bag for life price

Bags for life can continue to be supplied but must be provided to customers at the minimum price (or more).

The bag for life price is 70p inclusive of GST (if applicable).

2.6 Law Review

The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- has been reviewed by the Law Officers' Department and the proposed penalties approved by the Attorney General. The notes provided following the Human Rights Review are provided as **Appendix C**.

3.0 Background

The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- has been drafted following support by the States Assembly of Proposition P.64/2020 that aimed to reduce waste, increase reuse and support Jersey's Carbon Neutral Strategy by removing single use bags and setting a minimum price for 'bags for life.'

The intention at the centre of the Proposition was to encourage a 'bring your own bag' culture and help to change behaviour away from single use consumption and disposal. This supports Jersey on its path to being a more sustainable place to live and work and provides a tangible action that demonstrates the commitment to reducing carbon emissions made in the Carbon Neutral Strategy 2019 ([P.127/2019](#)). It engages the island community with the principle that, to be successful in addressing the climate emergency, everyone will have to play their part.

The States Assembly voted in favour of banning lightweight and very lightweight plastic carrier bags and paper carrier bags; setting a minimum price for the sale of bags for life and bringing forward the draft legislation.

A fourth item was originally included in the Proposition regarding the gifting of profits from bag for life sales to local environmental charities but this was withdrawn prior to debate.

Bans on specific types of single use plastics are becoming more commonplace across the world with the first legislative ban coming into force in 2002. As of July 2018, one hundred and twenty-seven (127) out of 192 countries reviewed (about 66%) have adopted some form of legislation to regulate plastic bags. Twenty seven (27) countries have enacted legislation banning either specific products (e.g. plates, cups, straws, packaging), materials (e.g. polystyrene) or production levels ([source UN Environment Programme, 2018](#)).

3.1 Single use plastic bags

The States of Jersey has passed a resolution to support Plastic Free Jersey and agreed to a number of commitments, one being to encourage plastic free initiatives.

The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- provides a mechanism to significantly reduce the use of single use plastic bags and an opportunity to extend the legislation to other avoidable single use plastics such as takeaway food and drink containers in the future.

3.2 Single use paper bags

It is essential that paper bags are included in the legislation, otherwise there is a high risk that paper bags will be provided as an alternative to plastic bags. This will not change behaviour and will maintain a throwaway culture. The environmental impact will also be greater as, according to research conducted by the [Environment Agency \(2006\)](#), a paper carrier bag has to be re-used at least 3 times to be as 'environmentally-friendly' as a single-use plastic carrier bag.

This would undermine the intention of the original Proposition which aims to reduce waste and change behaviour to help make Jersey more sustainable.

3.3 Bags for life

Bags for life can continue to be provided by traders but must be supplied to customers at the minimum price specified in the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202-.

The behaviour to purchase bags for life and use them repeatedly in supermarket shopping is now well established and so the legislation aims to extend this to all other transactions.

This user pays approach is adopted to discourage purchase and encourage consumers to reuse bags already in their ownership. Setting a minimum price at a point that supports the intended positive behaviour change is essential and this has been set at 70p (inclusive of GST, if applicable) following consultation with the retail industry.

The proposed minimum price is aligned to the national recommendation made in 2019 and reaffirmed in January 2021 by the [Environmental Investigation Agency and Greenpeace](#).

The specification for both the plastic and paper bag for life ensure that the items are recyclable at the end of their useful life. Retailers could establish their own recycling take back scheme for plastic bags for life although it is expected that bag suppliers will introduce this service if it is not already in place. Paper bags for life can be recycled through the existing paper recycling channels and retailers could also establish their own take back service.

No definition of recycling has been provided in the Law so that the legislation does not restrict the recycling options available to traders. To support future procurement, resources will be provided that outline the specifications suitable for recycling, for example paper bags should not be laminated as this makes them unacceptable for recycling.

Biodegradable bags are not included within the definition of recyclable as they are not recyclable due to the presence of an additive that compromises the quality of the recycled plastic.

3.4 Very lightweight plastic carrier bags

Going forward under the Law, very lightweight plastic carrier bags must comply with the provided specification that includes a requirement to meet the “OK compost HOME” (or equivalent) certification.

This requirement means that the bags could be recycled using a home composting system. While it is recognised that most people will not use this system to recycle these bags, the specification provides this opportunity to manage this waste stream in a sustainable way and sets a precedent for other single use plastics going forward. The home compostable certification will also help to reduce the environmental risk posed by the bags if they are released into the environment as litter, as all compostable plastics are also biodegradable.

The OK compost HOME certification is well known in the UK and Europe and approval by TÜV AUSTRIA (certification body) means that the bags meeting this certification are suitable for home composting. Home composting is very different to industrial composting which operates at much higher temperatures to provide a faster composting process under more controlled conditions. A number of country specific standards have been introduced based on the OK compost HOME certification and so the definition has allowed for bags that meet ‘equivalent’ certifications.

It is important to note that the OK compost HOME accredited packaging cannot be received for industrial composting at the Government of Jersey's green waste composting facility.

4.0 Consultation

Consultation with the retail sector was required to inform the minimum price set for bags of life and this was completed in September 2020 and a summary of the responses was published on gov.je

The consultation was a requirement of the original Proposition to set a minimum price for 'bags for life'. Retailers were also asked for their views on other elements of the legislation including the implementation period and the inclusion of other avoidable single use items in the future e.g. beverage cups and takeaway food containers. These wider questions were asked to ensure the policy and legislation was realistic and acceptable to the retail sector.

A total of 59 respondents completed and returned the online questionnaire and several businesses expressed views in direct email correspondence with the Department. The consultation was shared with the Jersey Chamber of Commerce, Jersey Business and Jersey Hospitality Association, was promoted via the local media and social media and was available on gov.je from 20th August to 18th September 2020.

4.1 Minimum bag for life price

Retailers were asked 'What should the minimum charge for a bag for life be?'. A summary of the answers received is provided:



Figure 4.0 Data from the online consultation

The responses ranged across the options and so a weighted average approach was taken which resulted in a calculation of 72.22p.

As the nearest option provided in the survey question was 70p, this was the recommendation made from the consultation to inform the future legislation.

The price included in the pricing schedule of the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- is 70p (including GST, if applicable).

The price set out in the Schedule of the legislation is also aligned to the national recommendation of 70p made in 2019 and reaffirmed in January 2021 by the [Environmental Investigation Agency and Greenpeace](#). This recommendation followed research that concluded that 70p is the critical price point required to support a shift in behaviour change away from the repetitive purchase of bags. Evidence of the messaging from the Environmental Investigation Agency and Greenpeace is shown below:



Figure 5.0 Graphic outlining research finding

The minimum price of a bag for life can be amended as and when required by an Order from the Minister for Infrastructure.

4.2 Industry exemptions

Prior to the consultation, exemptions for specific industries was not being considered.

Responses to the consultation highlighted concerns from specific industries, notably pharmacies and fish mongers.

The issues raised were explored with Environmental Health, Customs and Immigration, the States Vet and Environmental and Consumer Protection and the following exemptions were agreed:

- **a bag to be used to contain uncooked fish and fish products:** this is required due to smell and liquid residues i.e. shellfish
- **a bag to be used to contain prescription medicine or appliance** - this is required for security and privacy reasons
- **a bag holding live fish or other aquatic creatures** – this is required to protect the welfare of the fish and aquatic creatures being transported
- **a bag to be used to contain or goods in transport, such as at an airport, plane or ship** - this is required for security reasons

No further exemptions were recommended. A summary of the potential exemptions discussed, and the recommendations made are included as **Appendix A**.

4.3 Paper bags for life

Responses to the consultation identified a concern from some retailers regarding the potential ban of luxury paper bags and the need to continue their availability.

Luxury paper bags are thick paper bags often used by retailers to package expensive goods such as portable electronics, cosmetics and boutique clothing.

Some retailers expressed a preference to use these bags as they had made a commitment to be a plastic free business and other retailers referred to their luxury customer experience.

This request was carefully considered along with developing a specification for the luxury paper bag, referred to in the legislation as a paper bag for life.

Further investigation identified that these bags have the potential to be reused, although this is perhaps limited more by consumer behaviour than the bag's durability, and so the bag for life category included in the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- was extended to include to bags for life made of paper.

A paper bag for life specification was developed alongside the plastic bag for life definition, providing retailers with a choice of packaging. By including the paper bag for life in the category which requires a minimum price to be charged to customers, the number of bags in circulation is expected to reduce and the number of times paper bags for life are reused is expected to increase.

A paper bag for life differs from a gift bag. A gift bag is defined as a bag purchased for the intended purpose of gift wrapping only; whereas the primary function of a paper bag for life is to carry/transport goods by the customer from the point of purchase. A paper bag for life that is of sufficient quality and appearance to also function as a gift bag is classed as a paper bag for life.

In order to reduce the environmental impact of the paper bag for life and maximise the opportunity for reuse and recycling, the paper bag for life specification was developed in collaboration with bag suppliers and industry recyclers. During the implementation period, guidance notes will be provided to retailers to aid procurement decisions as part of the communications plan.

4.4 Future extensions

The consultation included questions regarding the possible extension of the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- in the future to a wider the range of avoidable single use plastics.

74% of respondents answered yes to 'Would you like to see Jersey's single use bag ban extended in the future to help reduce the use of other single use items?'. Retailers were provided with a choice of what single use items could be included in a future ban and a mixed response across all of the options was received, as shown here:

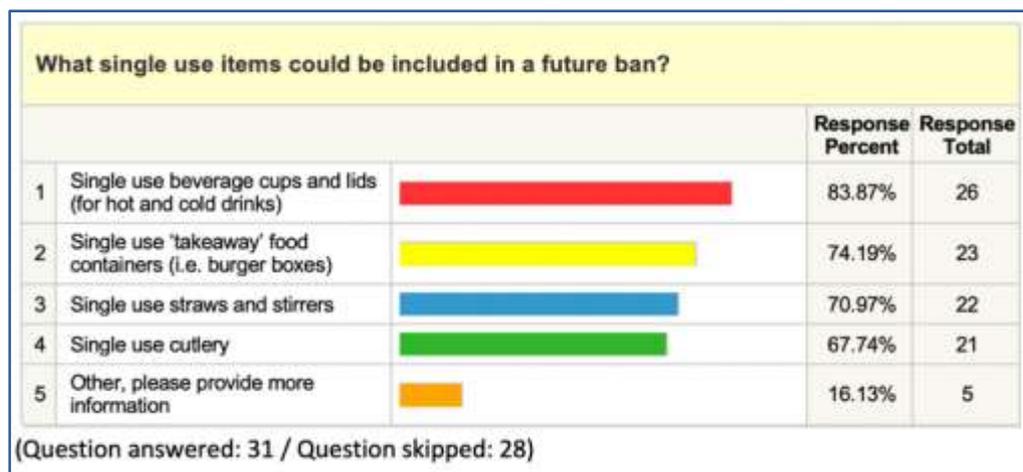


Figure 6.0 Data from the online consultation

The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- has been drafted so that additional items can be banned in the future under this Law as required.

4.5 Implementation period

A six month implementation period was included in the original Proposition but questions regarding this were included in the consultation to ensure that this period is realistic and acceptable to the retail sector.

The consultation did not identify a need for an implementation period of longer than the 6 months already specified.

To support traders make any required changes well in advance of the Law coming into effect, a communications plan will be implemented once the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- is passed by the States Assembly. This will include targeted communications across the retail and hospitality sector.

5.0 Implementation

5.1 Retailer action

Traders that currently provide paper and/or plastic bags to customers will need to ensure that only the permitted bags are used once the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- comes into force.

This will mean that traders must exhaust stocks of the following:

Bag type	Definition	Visual example
Lightweight plastic carrier bag	With or without handle, made of plastic with a wall thickness of 15 microns and above but less than 50 microns	
Very lightweight plastic carrier bags	With or without handle, made of plastic with a wall thickness of less than 15 microns and not meeting the “OK compost HOME” (or equivalent) certification	
Paper carrier bag	With or without handle, made of paper to a weight of 50gsm and above but less than 170 gsm	

Figure 7.0 Summary of bags traders can no longer supply under the future legislation

Trades wishing to provide plastic and/or paper bags to customers once the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- comes into force must only provide the following bags and must ensure customers are charged the minimum price for a bag for life if this type of bag is provided.

Bag type	Definition	Visual example
Plastic bag for life – supplied at a minimum inclusive price of 70p	Carrier bag with or without handle, made of recyclable plastic, with a wall thickness of 50 microns or above	
Paper bag for life – supplied at a minimum inclusive price of 70p	Carrier bag with or without handle, made of recyclable paper to a weight of 170 gsm or above	
Very lightweight plastic carrier bags	With or without handle, made of plastic with a wall thickness of less than 15 microns and meeting the “OK compost HOME” (or equivalent) certification	

Figure 8.0 Summary of bags traders can supply under the future legislation

The bags shown below are unaffected by the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202-:

Bag type	Definition	Visual example
Paper ‘counter’ bags	Paper bags, with or without a handle, which are less than 50 gsm.	
Integral product packaging	A bag that is an integral part of the packaging in which goods are sealed prior to sale.	

Bin-liners, nappy bags, and 'dog poo' bags	Dog poo, nappy bags and bin liners purchased and used for their intended purpose.	
Gift bags	A bag purchased for the intended purpose of gift wrapping only	

Figure 9.0 Summary of bags traders can continue to supply under the future legislation

Traders providing the following goods included as industry exemptions are exempt from following the above requirements for the specific products included in the exemption list:

- uncooked fish and fish products
- prescription medicine or appliance
- live fish or other aquatic creatures
- goods in transport, such as at an airport, plane or ship

The exemptions only apply to the goods listed above, for example a pharmacy can provide a bag banned under Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- for prescription medicine or appliances but they could not use a bag banned under this legislation to package other retail goods i.e. shampoo.

The original Proposition called for retailers to establish a ‘take back’ recycling scheme for bags for life returned by customers. Larger retailers may already have this supply chain established whereas smaller retailers can discuss this opportunity with their bag wholesalers.

To support retailers ensure the bags for life they provide meet the specification provided to enable recycling, a communications plan will be implemented once the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- is passed by the States Assembly. This will include targeted communications across the retail and hospitality sector and resources to help traders make any required changes well in advance of the Law coming into effect.

5.2 Communications

A communications plan has been developed to outline the tools that will be developed to communicate with the two key stakeholder groups in the implementation period: Jersey traders and Jersey shoppers.

The plan is included as **Appendix B** and includes the following:

Communications with traders to raise awareness and support compliance:

- In store signage (available free of charge on request prior to launch, artwork available as a free download post launch);
- Factsheets explaining the changes and action that is needed;
- Information available on gov.je;
- A monthly article and short video to target specific questions and key areas;
- ‘Drop in’ sessions;
- Communications with membership bodies i.e. Chamber of Commerce, Jersey Business and Jersey Hospitality Association.

Communications with shoppers to raise awareness of the changes (these tools will be highly visual to ensure accessibility):

- Use of gov.je and partner social media channels;
- Production of visual infographics;
- Roadside display banners;
- Production of a short video to explain the changes and what this will mean when out shopping;
- Radio advertising;
- Print advertising including Parish magazines;
- ‘Pop up’ information stand.

The cost of the tools outlined in the communications plan is included in the resources and financial implications section of this report (Section 7.0).

6.0 Enforcement

The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- prohibits:

- the importation and supply of the specified single use bags;
- the supply of a paper bag for life or a plastic bag for life at a price below the minimum price specified.

The Law applies to all traders and specific industry exemptions are outlined in Section 4.2

The officers actively working to enforce the Law will be (but not restricted to) Customs and Immigration and Environmental and Consumer Protection.

Reports of non-compliance can also be reported to The Jersey Trading Standards Service.

Support will be provided to a trader that is suspected of breaching the Law so that any issue can be resolved. The Jersey Trading Standards Service will also provide advice to traders to support ongoing compliance.

Officers can issue a Notice as required and this could result in a Level 2 fine (£1,000) being charged.

7.0 Resource and financial implications

Monitoring compliance with the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- and supporting traders with the new operating requirements will impact the workload of the Environmental and Consumer Protection team.

An additional Technical Support Officer will be required to deliver the '4 E's approach' adopted by Environmental and Consumer Protection: Engage, Explain, Encourage, Enforce.

The Officer will be responsible for taking calls and enquiries, undertaking visits to the ports and retail outlets, pro-active and reactive inspections, inspecting consignments, education, awareness and enforcement.

One Civil Service Grade 7 position has an annual cost of £33,670 per year (plus social security and pension contributions).

The Environmental and Consumer Protection team also require support with the managed implementation of the Law as resources within the team do not have capacity to deliver staff training, produce technical guidance notes and manage stakeholder engagement such as resourcing 'pop up' information points for traders and shoppers. This will cost £8,000.

The cost of delivering the communications plan provided in **Appendix B** is £18,500. This does not include any design costs as this service would be provided by the central Communications Team. A breakdown of the costs is as follows:

£10,000 in store signage for traders

£1,500 other trader communications

Trader communications £11,500 in total

£7,000 shopper communications (i.e. print, radio and digital communications)

Shopper communications £7,000 in total

Total spend: £18,500

The financial implication during the first year of the Law coming into effect is £60,170 and £33,670 for subsequent years.

This cost cannot be met from existing budgets. Once the Law is approved, contingency funding will be allocated to provide the resources required in the first year. Funding for subsequent years will be included in the Government Plan.

8.0 The future

The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- is a new piece of primary legislation that aims to reduce waste and increase reuse by enabling more sustainable choices by traders and encouraging a change in behaviour away from single use consumption and disposal by shoppers.

It is also a tangible action that demonstrates the political commitment made in the Carbon Neutral Strategy to support Jersey on its path to being a more sustainable place to live and work and engages the island community with the principle that, to be successful in addressing the climate emergency, everyone will have to play their part.

It is also important as it allows the start of a journey to reduce the use of other avoidable single use items such as takeaway food and drink containers. Taking these items out of the local supply chain would promote the use more sustainable alternatives and

challenge single use behaviour further, providing an opportunity to link individual actions to the Island's Carbon Neutral Strategy and outward global responsibility.

9.0 Performance measures

Measuring the success of the withdrawal of single use bags and introduction of a minimum price for bags for life will be difficult to quantitatively report. Jersey's waste and recycling statistics are calculated by weight and this makes it very difficult to report the impact of initiatives focused on lightweight waste streams.

The consultation included a question that asked if traders would share data confirming the number of bags for life they sold to customers. The responses recorded a bias toward businesses not being able or willing to provide the Government of Jersey with the number of bags for life sold to customers, with only 31% of the respondents able to share this data.

In the absence of empirical data, success can be measured through behaviour change, notably at the checkout where more shoppers will be reusing a bag already in their ownership and rejecting the option to purchase a new bag for life. This behaviour that is already commonplace in the supermarket will extend across all shopping transactions.

10.0 Recommendation

The Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- has been prepared with collaborative working across a number of departments, namely Strategy, Policy Performance and Planning, Customs and Immigration, Environmental and Consumer Protection and the Legislative Drafting Office.

The requirements of general traders have been considered following the consultation, along with those of specific industries.

This new primary piece of legislation supports the Carbon Neutral Strategy and can help to stimulate a wider behaviour change away from single use consumption and disposal that supports Jersey on its path to being a more sustainable place to live and work.

A pragmatic approach has been taken to the enforcement so that traders who fail to comply can be supported and the implementation period provides six months during which a communications plan will provide information to both traders and shoppers so that the changes required are well known and understood prior to the Law coming into force.

It is the recommendation of this report that the States Assembly vote in favour of the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- being introduced.

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APPENDIX A TO REPORT

The notes taken during the discussion of potential industry exemptions with Environmental Health, Customs and Immigration, the States Vet and Environmental and Consumer Protection are provided below:

- a bag to be used to contain uncooked fish and fish products: recommended that this exemption is applied locally. This is required due to smell and liquid residues i.e. shellfish.
- a bag to be used to contain uncooked meat, poultry and their products: an exemption is not required. Smell and liquid residues are not a concern like fish. Packaging to provide a barrier to prevent contamination is required but a very lightweight plastic carrier bag would be sufficient. Retailers could double bag items and these items are unlikely to be purchased on their own i.e. the shopper would have a bag to hold this item and other items of shopping.
- a bag to be used to contain unwrapped food for animal or human consumption - such as chips, or food in containers that aren't secure enough to prevent leakage during handling: an exemption is not required. Alternative packaging options are available i.e. a foldable box to contain a takeaway order.
- a bag to be used to contain unwrapped loose seeds: an exemption is not required. Retailers could promote 'bring your own container' solutions for larger purchases of seed.
- a bag to be used to contain flowers: an exemption is not required.
- a bag to be used to contain bulbs, corms or rhizomes (roots, stems and shoots, such as ginger): an exemption is not required. The use of thin paper bags would be better suited than plastic to help reduce the risk of the items rotting.
- a bag to be used to contain goods contaminated by soil (like potatoes or plants): an exemption is not required. A barrier is needed to prevent contamination but this can be a variety of materials, a very lightweight plastic carrier bag or thin paper bag would be suitable.
- a bag to be used to contain unwrapped blades, including axes, knives, and knife and razor blades: an exemption is not required. Other types of packaging can be used.
- a bag to be used to contain prescription medicine - this will have an exemption in Jersey based on privacy and security risks.
- a bag to be used to contain used for a service, but there is no sale of goods, for example dry cleaning - the type of industries that could be included in this was discussed, no concerns were raised and an exemption is not required.
- a bag holding live fish or other aquatic creatures – an exemption is required to ensure no risk to welfare
- a bag to be used to contain or goods in transport, such as at an airport, plane or ship - this will have an exemption in Jersey based on security risks.
- a bag considered as sealed packaging for mail order and click-and-collect orders - goods that are bagged prior to purchase will be exempt as having 'integral product packaging' for example a packaged loaf of bread and pre-packed vegetables. Nothing further discussed.

APPENDIX B TO REPORT

This communications plan has been developed to summarise the tools that will be developed to communicate with the two key stakeholder groups in the implementation period: Jersey traders and Jersey shoppers.

	Debate	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Launch
States Assembly vote								
Media release								
Communications with membership bodies i.e. Chamber of Commerce, Jersey Business and Jersey Hospitality Assoc.								
In store signage produced to remind customers to bring their own bags and to reuse the bags they have. Quantities available per trader on request prior to launch. Free downloads available post launch								
Instore signage produced to advertise bag for life price								
Factsheet explaining the changes sent to traders via membership bodies and available online								
Factsheet explaining the changes sent to bag wholesalers								
Information available on gov.je along with contact details for queries								
Monthly article and short video posted online to answer questions and address key areas. All materials remain online as a reference								
Drop in' sessions held for traders to ask questions in person								
Information on gov.je								
Count down reminder social media posts								
Social media plan to remind shoppers of the changes. Use of gov.je and partner channels								
Infographic visually communicating changes for use by gov.je, partners and traders								
Roadside banners reminding shoppers of the changes								
Short video visually communicating the changes								
Radio advertising								
Town high street 'pop up' information stand								
Parish newsletter article								
Print advertising								

Key:				
	Debate	General	Traders	Shoppers

Figure 10.0 Summary of proposed communications plan

APPENDIX C TO REPORT**Human Rights Notes on the Draft Single-Use Plastics etc. (Restrictions)
(Jersey) Law 202-**

These Notes have been prepared in respect of the Draft Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (the “**Convention**”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law would prohibit the provision in Jersey, by retailers and others, of single-use plastic bags and related items, and would restrict the provision of other types of re-usable bags except at a specified price. The draft Law also provides authorised officers with various powers including powers of inspection and seizure, and the Royal Court with injunctive powers, to address suspected contraventions of the draft Law.

Article 6 ECHR – the right to fair trial

Article 6 of the Convention provides for the right to a fair trial and, in the safeguards encapsulated by that provision, is the presumption of innocence in criminal proceedings (Article 6(2) ECHR. Article 6(2) ECHR is engaged by Article 7 which provides for defences to the various offences set out in Articles 2 to 4 of the draft Law (i.e. the prohibition on supply of single-use items (Article 2), no supply of certain restricted items except at a specified price (Article 3) and the prohibition on importation of single-use items (Article 4)). Those defences are based around a reverse burden of proof, i.e. that it is for the trader concerned to show that there was a reasonable excuse for the commission of the offence (e.g. a mistake or accident).

Article 6(2) of the Convention does not prohibit statutory provisions which transfer the burden of proof to the accused to establish the defence, provided the overall burden of establishing guilt remains with the prosecution. In addition, any rule shifting the burden of proof must be confined within “reasonable limits which take into account the importance of what is at stake and maintain the rights of the defence”. A question which is typically asked in determining this issue is whether the burden imposed on the accused relates to something which is likely to be within his knowledge or to which he has ready access. In the case of the various defences set out in Article 7(1), the legal burden of proof properly falls on the accused because all information relevant to the defence would be known to the trader accused and not to the prosecutor (i.e. whether the trader placed reliance on information supplied to the trader by another person or whether the trader made a mistake). Balanced against the need to protect the environment by looking after our surrounding waters and marine life and the limited penalties under Articles 2(7), 3(5) and 4(5) (each being a level 2 fine), there is no incompatibility with the Convention arising from Article 7.

Another important procedural safeguard is that a notice issued under each of Articles 2(4), 3(2) and 4(2) of the draft Law must contain a statement that an appeal may be made against the notice in accordance with Article 9 (Appeals) of the draft Law.

Article 9(1) provides that a person on whom notice is served under Articles 2, 3 or 4, and any person having an interest in the items in respect of which the notice is served, may appeal to the Royal Court within 1 month of service of the notice on the grounds that service on that person, or any requirement in the notice, was unreasonable. Further, Article 9(2) provides that, where an appeal is duly made, the court may direct that the notice shall cease to have effect until the appeal is determined.

Article 8 ECHR: the right to respect for private and family life

Article 8 of the Convention is engaged by the power in Article 5(3) for authorised officers to enter premises without warrant. It is clear that the Article 8 ECHR right to respect for the home applies to business premises in certain circumstances, in addition to personal dwellings, and in some cases a person may rely on Article 8 of the Convention to establish a right to respect for its business premises. Inspections carried out under Article 5(3) will focus on business premises and as a result Article 8 ECHR will be engaged by the exercise of entry powers under the draft Law.

Any interference with the Article 8(1) ECHR right must be justified under Article 8(2) of the Convention, meaning it must be: (a) in accordance with the law; (b) in pursuit of one of the legitimate aims set out in Article 8(2) of the Convention; and (c) necessary in a democratic society. ‘Necessity’ requires the identification of a pressing social need and the existence of “relevant and sufficient” reasons to justify the interference at issue. A measure will only be proportionate to the legitimate aim if supported by sufficiently persuasive reasons.

The nature of the interference constituted by the power to enter premises in Article 5(3) would be deemed to be ‘in accordance with the law’; that power is contained in a provision which will have a basis in domestic law and which can be viewed as sufficiently precise and accessible, therefore being foreseeable. The purpose of the Article 5(3) power is to ensure that inspectors are able to ascertain whether or not an offence under the Law is being or has been committed. Those offences relate to the need to protect the environment by looking after our surrounding waters and marine life, so the rationale for the Article 5(3) power can be categorised within the ‘protection of health or morals qualifications in Article 8(2) of the Convention.

‘Necessary in a democratic society’ requires there to be a pressing social need for the interference in question and that the interference is proportionate to the legitimate aim pursued. In the present case, it is fair to conclude that enabling entry onto premises is ‘necessary’ for ensuring that offences can be detected as that is, in practice, the only means by which authorised officers can perform the required inspections. Measures aimed at protecting the marine environment by prohibiting the supply and import of certain single-use plastic items are a ‘pressing social need’ and, balanced against those legitimate aims, the interference with the Article 8 ECHR right constituted by the power to enter premises is proportionate, in principle. There remains at all times a need for the Article 5(3) power to be exercised in a proportionate manner.

An important aspect in determining what is ‘necessary in a democratic society’ is the identification of procedural safeguards which mitigate the exercise of powers interfering with the Article 8(1) right. Safeguards ensure that a state remains within its margin of appreciation in fixing the applicable regulatory framework. The European Court of Human Rights has enunciated a list of safeguards which provide adequate protection against abuse of the Article 8 right, one of which is the requirement for the law to contain explicit and detailed provisions about how the powers interfering with Article 8 ECHR should be exercised.

In the draft Law, the purpose for the exercise of the Article 5(3) power is clearly stated as being for ascertaining whether or not an offence under the Law is being or has been committed. Linking the entry power to a specific purpose should in theory temper any frivolous or unnecessary exercise of the power. In addition, there are a number of other safeguards against excessive operation of the power: excluding the application of the power from personal dwellings; stating that the power may only be exercised at reasonable hours; and requiring evidence of the authority of authorised officers if required to do so.

Article 1 of the First Protocol (“A1P1”) – Protection of property

A1P1 provides for the protection of ‘possessions’ and there are three aspects of the draft Law which will engage this right. The first is the power in Article 5(5)(b)(i) for an authorised officer, when entering premises under the power in Article 5(3), to seize and detain any goods. The second is the power in Article 10(2) for the Royal Court to grant an injunction or other order to secure compliance with the Law. Finally, the third is the power in Article 8 for the Minister to apply to the Court for an order for the forfeiture of items. It is worth noting here that A1P1 expressly mentions ‘legal persons’ so it will cover the property rights of companies and other incorporated bodies, such as those businesses that might be subjected to an inspection or injunction under the draft Law.

In A1P1 terms, the seizure of property ancillary to the enforcement of domestic legislation, such as the draft Law, has generally been treated in case law as a control of use of property rather than as a deprivation. For a measure constituting a control of use to be justified it must be in accordance with law and for ‘the general interest’. The measure must also be proportionate to the aim pursued.

In the context of A1P1, a general interest has been found in measures enabling the seizure of goods taken in relation to legal proceedings, and for reasons relating to legality such that compliance by an entity with certain laws has been held to constitute a legitimate general interest objective. The powers to seize goods and to impose injunctions provided in the draft Law are imposed to meet objectives that can be aligned closely to these recognised interests. Entry onto premises is necessary to detect the commission of offences and injunctions are required to prevent traders from continuing illegal practices which, in turn, are required to ensure that measures designed to protect Jersey’s marine environment are fully effective. It should be appreciated that, where property rights are concerned, states have a considerable margin of appreciation in determining the existence of a general public concern and in implementing measures designed to meet it, so in providing a power to seize goods or impose injunctions which amount to an interference with property rights but which is required in pursuance of an identifiable public interest, the States would be afforded a degree of deference.

A further strand of justification for a ‘control of use’ under A1P1 is the need for measures to be in ‘accordance with the law’. Again, this requires the law to be sufficiently precise and foreseeable, and it is fair to conclude that the draft Law would satisfy this requirement. The nature of the interferences constituted by the power to seize goods and impose injunctions would be deemed to be ‘in accordance with the law’; those powers are contained in provisions which will have a basis in domestic law and which can be viewed as sufficiently precise and accessible, therefore being foreseeable.

Proportionality requires a fair balance to be struck between the means employed in furtherance of the general interest identified and the protection of fundamental rights. The requisite balance will not be struck if the person concerned has had to bear an “individual and excessive burden”. In the present context, a power to seize goods in pursuance of the aim of detecting the commission of offences and to impose injunctions

is entirely proportionate to the general interest of preventing unfair commercial practices.

Abuse of the seizure power is safeguarded against by the fact that it must be exercised for the purpose of ascertaining whether or not an offence is being or has been committed.

The seizure power and the power to impose injunctions in the draft Law are justifiable in principle, however, as with the entry power discussed above, these powers must be exercised in a proportionate manner in practice, based on the nature of the items seized or the particular circumstances in question and the specific public interest engaged.

In relation to Article 8(5) of the draft Law, the Minister may apply to the Royal Court for an order for the forfeiture of any items on the grounds that there has been a contravention of a prohibition or restriction in the draft Law in respect of those items. The Minister must serve a copy of the application on any person that appears to be the owner of, or otherwise interested in, the relevant items. A notice must also be served on the relevant person, advising him/her of his/her right to appear at the hearing of the application and make representation as to why the items should not be forfeited. If the Court is satisfied that there has been a contravention of a prohibition or restriction, then it must order the items in question to be forfeited.

The power of the Royal Court to order the forfeiture of any items on the above grounds may also engage A1P1 on the basis that the exercise of such powers may interfere with a natural or legal person's property rights in any particular case. However, regarding such interference as proportionate should be uncontroversial as forfeiture would only be ordered where the Court is satisfied that there has been a contravention, following its consideration of the Minister's application and any representations made by the affected person/persons. As such, the measure strikes an appropriate balance between individual a person's individual rights and the general interest in implementing measures designed to protect the marine environment.

EXPLANATORY NOTE

This draft Law, if adopted, would prohibit the provision in Jersey, by retailers and others, of single-use plastic bags and related items, and would restrict the provision of other types of re-usable bags except at a specified price.

Article 1 is an interpretation provision for the purposes of this Law. In particular it defines what amounts to “supply” (in almost identical terms as under the Consumer Safety (Jersey) Law 2006), and sets out what, for the purposes of this Law, is meant by describing an item as being made of recyclable material.

Article 2 prohibits the supply of items listed in paragraph 1 of the Schedule, being chiefly lightweight or very lightweight plastic bags (as to which, relevant technical specifications are given in the Schedule) and light paper carrier bags. The Minister for Infrastructure has power to disapply the prohibition by means of guidance under *Article 14*, in relation to specified types of such bags, in specified circumstances or for specified purposes. Where the Minister or an authorised officer reasonably suspects breach of the prohibition, the Minister may by notice request the person concerned to stop supplying items specified in the notice. The recipient of the notice has an opportunity to make representations or to comply with the notice voluntarily, or to give an undertaking to the Chief Inspector under *Article 11*, but a breach of the notice is an offence punishable by a fine of level 2 on the standard scale of fines (i.e. a maximum of £1,000 under that scale as set out in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993).

Article 3 prohibits the supply of items specified in paragraph 2 of the Schedule at any price lower than that specified in relation to such items. Again, there is provision for the service of notices upon reasonable suspicion of breach of that prohibition, and an offence is created which carries the same level of penalty as the offence in *Article 2*. Under *Article 3(6)* the “price” of an item means the selling price i.e. the price inclusive of GST.

Article 4 prohibits the importation of items prohibited under *Article 2* and contains similar provision as to notices and criminal liability for breach of the prohibition.

The powers of authorised officers to investigate potential or alleged breaches, and to enforce the Law, are set out in *Article 5*. This Article includes a power to make test purchases which reflects a power of the same nature in Article 11 of the Consumer Protection (Unfair Practices) (Jersey) Law 2018.

Article 6 confers power on the Agent of the Impôts, the Chief Inspector and the Minister to disclose information to each other for the purposes of investigation and enforcement under this Law.

Article 7 creates a defence of due diligence, equivalent to the similar defence in Article 8 of the Consumer Protection (Unfair Practices) (Jersey) Law 2018.

Article 8 enables the Minister to apply to the Royal Court for an order for forfeiture of prohibited items. If the Court is satisfied that there has been a contravention of the Law, the items in question may be forfeited and the Court can order their destruction or disposal.

Article 9 creates a right of appeal against service of a notice.

Articles 10 to 12 create a means of enforcement which is an alternative to criminal prosecution, again equivalent to similar provisions in the Consumer Protection (Unfair Practices) (Jersey) Law 2018.

Article 10 enables the Attorney General to apply to the Royal Court for an injunction if a person appears to be contravening the Law. *Article 11* confers power on the Chief Inspector to obtain undertakings from a person suspected of contravening the Law. The Chief Inspector may publish details of such an undertaking, or of an injunction, under *Article 12*.

Article 13 provides for liability of directors or other offices of certain bodies corporate where an offence under this Law is committed by such a body.

Article 14 confers power on the Minister to issue guidance as to the application of this Law and in particular as to its application to types or specifications of items.

Article 15 confers power to amend the Schedule by Regulations, except for prices specified in paragraph 2, which may be amended by Order of the Minister.

Article 16 gives the title by which this Law may be cited and provides for it to come into force 6 months after being adopted.



Jersey

DRAFT SINGLE-USE PLASTICS ETC. (RESTRICTIONS) (JERSEY) LAW 202-

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Jersey

DRAFT SINGLE-USE PLASTICS ETC. (RESTRICTIONS) (JERSEY) LAW 202-

A LAW to prohibit the supply and importation of certain single-use plastic items and to set a price for the supply of reusable carrier bags, and for connected purposes.

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

(1) In this Law –

“Agent of the Impôts” is to be construed in accordance with Article 4 of the Customs and Excise (Jersey) Law 1999¹;

“authorised officer” means a person authorised, by the Minister, the Agent of the Impôts or the Chief Inspector, to carry out the functions of an authorised officer under this Law;

“Chief Inspector” is to be construed in accordance with Article 2 of the Weights and Measures (Jersey) Law 1967²;

“commercial activity” includes an operation for charitable purposes;

“gsm” means grammes per square metre;

“import” has the same meaning as given by Article 1(1) of the Customs and Excise (Jersey) Law 1999³;

“micron” means one thousandth (0.001) of a millimetre;

“Minister” means the Minister for Infrastructure;

“prohibited item” means an item of which the supply or importation is prohibited or restricted under this Law;

“supply” means doing any of the following acts in the course of a commercial activity –

(a) selling, hiring out or lending an item;

- (b) entering into a hire purchase agreement to furnish an item;
 - (c) providing an item in exchange for anything of value other than money;
 - (d) providing an item in, or in connection with, the performance of a statutory function; or
 - (e) giving an item as a prize or otherwise making a gift of an item,
- and also includes any offer, agreement, exposure or possession of an item for the purposes of supply;

“trader” means a person acting for purposes relating to that person’s commercial activity, whether acting in person or through another person acting in the trader’s name or on the trader’s behalf.

- (2) For the purposes of this Law an item is made of recyclable material if the item consists, in a recyclable form, only of material of a specified description and does not consist of, or contain, any additional material which cannot be recycled.

2 Prohibition on supply of single-use items

- (1) Where this Article applies, a trader must not supply an item of a type and description specified in the table in paragraph 1 of the Schedule.
- (2) This Article applies in relation to any supply which takes place before, during or after a transaction, and disregarding –
 - (a) whether the transaction takes place in person, or electronically; and
 - (b) whether a charge is, or is not, made for or in relation to the supply of the item in question.
- (3) In relation to carrier bags the Minister may, in guidance under Article 14, suspend or disapply this Article in relation to either or both –
 - (a) specified types and descriptions of such bags; or
 - (b) the supply of such bags in specified circumstances or for specified purposes.
- (4) Where the Minister, the Chief Inspector or an authorised officer reasonably suspects that a trader is acting in breach of paragraph (1), an authorised officer may by notice request the trader to stop supplying items of the type and description specified in the notice.
- (5) Before serving a notice under paragraph (4), an authorised officer must give, to the person on whom the notice is to be served, a reasonable opportunity to make representations or to comply with the request in the notice on a voluntary basis, unless in all the circumstances it is not expedient to give such an opportunity.
- (6) A notice under paragraph (4) –
 - (a) must contain, in addition to the request mentioned in that paragraph and details of the alleged breach, the following information, namely –
 - (i) the type of item supplied, and where necessary a description of the item sufficient to identify it,

- (ii) a statement that an appeal may be made against the notice in accordance with Article 9, and
 - (iii) such other information as the Minister may reasonably consider necessary; and
 - (b) must be given in writing or by means of electronic communication, and be delivered to the registered or administrative office of the person in question or, if the address of that office cannot be ascertained, may be given to a person having control or management of the place in which the supply of the item took place.
- (7) A person who intentionally and without reasonable excuse fails to comply with a notice under paragraph (4) commits an offence and is liable to a fine of level 2 on the standard scale.

3 Price of certain restricted items

- (1) A trader must not supply, to any person, an item of a type and description specified in the first column of the table in paragraph 2 of the Schedule, except for a price at or above the amount specified in relation to that item in the second column of that table.
- (2) Where the Minister, the Chief Inspector or an authorised officer reasonably suspects that a trader is acting in breach of paragraph (1), an authorised officer may by notice request the trader to stop supplying items of the type and description specified in the notice.
- (3) A notice under paragraph (2) –
 - (a) must contain, in addition to the request mentioned in that paragraph and details of the alleged breach, the following information, namely –
 - (i) the type of item supplied, and where necessary a description of the item sufficient to identify it,
 - (ii) a statement that an appeal may be made against the notice in accordance with Article 9, and
 - (iii) such other information as the Minister may reasonably consider necessary; and
 - (b) must be given in writing or by means of electronic communication, and be delivered to the registered or administrative office of the person in question or, if the address of that office cannot be ascertained, may be given to a person having control or management of the place in which the supply of the item took place.
- (4) Before serving a notice under paragraph (2), an authorised officer must give, to the person on whom the notice is to be served, a reasonable opportunity to make representations or to comply with the request in the notice on a voluntary basis, unless in all the circumstances it is not expedient to give such an opportunity.
- (5) A person who intentionally and without reasonable excuse fails to comply with a notice under paragraph (2) commits an offence and is liable to a fine of level 2 on the standard scale.

- (6) For the purposes of this Article and paragraph 2 of the Schedule, “price” means the selling price as defined in Regulation 1 of the Price Indicators (Jersey) Regulations 2008⁴.

4 Importation of single-use items prohibited

- (1) A trader must not import an item prohibited under Article 2.
- (2) Where the Agent of the Impôts, the Chief Inspector, or an authorised officer reasonably suspects that a trader is acting in breach of the prohibition in paragraph (1), the Agent, Chief Inspector or officer may by notice request the trader to stop importing items of the type and description specified in the notice.
- (3) A notice under paragraph (2) –
- (a) must contain, in addition to the request mentioned in that paragraph and details of the alleged breach, the following information, namely –
 - (i) the type of item imported, and where necessary a description of the item sufficient to identify it,
 - (ii) a statement that an appeal may be made against the notice in accordance with Article 9, and
 - (iii) such other information as the Minister may reasonably consider necessary; and
 - (b) must be given in writing or by means of electronic communication, and be delivered to the registered or administrative office of the person in question or, if the address of that office cannot be ascertained, may be given to a person having control or management of the place in which the supply of the item took place.
- (4) Before serving a notice under paragraph (2), an authorised officer must give, to the person on whom the notice is to be served, a reasonable opportunity to make representations or to comply with the request in the notice on a voluntary basis, unless in all the circumstances it is not expedient to give such an opportunity.
- (5) A person who intentionally and without reasonable excuse fails to comply with a notice under paragraph (2) commits an offence and is liable to a fine of level 2 on the standard scale.

5 Powers of authorised officers

- (1) An authorised officer may –
- (a) enter into an agreement to secure the provision of a product; or
 - (b) make a purchase of any goods,
- for the purpose of ascertaining whether or not an offence under this Law is being or has been committed.
- (2) In paragraph (1), “product” and “goods” –
- (a) may include, but are not limited to, prohibited items; and
 - (b) have the same meanings as given by Article 1(1) of the Consumer Protection (Unfair Practices) (Jersey) Law 2018⁵, except that sub-

paragraph (d) in the definition of “product” in that provision does not apply for the purposes of this Law.

- (3) An authorised officer may enter any premises, other than premises used only as a private dwelling, at all reasonable hours, for the purpose of ascertaining whether or not an offence under this Law is being or has been committed.
- (4) If required to do so, an authorised officer exercising the power conferred by paragraph (3) must produce evidence of their authority.
- (5) The power conferred by paragraph (3) includes –
 - (a) power to inspect any item; and
 - (b) the same powers of seizure, access and copying, and retention, as are conferred on a police officer by Articles 21 to 24 (except Article 24(3)) of the Police Procedures and Criminal Evidence (Jersey) Law 2003⁶, and in the application of those provisions for the purposes of this Law –
 - (i) for a reference to a police officer, there is substituted a reference to an authorised officer,
 - (ii) for the references in Article 23(3) to the Force or the Honorary Police, there are substituted references to the Chief Inspector, and
 - (iii) for the reference in Article 24(5) to the police, there is substituted a reference to the Chief Inspector.
- (6) A person who intentionally obstructs an authorised officer acting in execution of powers conferred by this Article commits an offence and is liable to a fine of level 3 on the standard scale.

6 Power to disclose information

- (1) This Article applies to the Agent of the Impôts, the Chief Inspector and the Minister.
- (2) Each person to whom this Article applies may, for the purpose of facilitating the exercise of a function under this Law by any other such person, authorise disclosure to one or more of those persons of any information obtained in relation to the importation or suspected importation of prohibited items.
- (3) The information may be disclosed –
 - (a) in such manner as the person authorising the disclosure may direct; and
 - (b) whether or not the disclosure is requested by or on behalf of the person to whom the disclosure is made.

7 Defence of due diligence

- (1) In any proceedings against a trader for an offence under Article 2, 3 or 4, it is a defence for the trader to prove –
 - (a) that the commission of the offence was due to one of the following matters, namely –

- (i) a mistake,
 - (ii) reliance on information supplied to the trader by another person,
 - (iii) the act or default of another person, not being a person under the trader's direction or control,
 - (iv) an accident, or
 - (v) another cause beyond the trader's control; and
 - (b) that the trader took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence, including by any person under the trader's direction or control.
- (2) A trader may not seek to rely on the defence provided by paragraph (1) by reason of a matter in either sub-paragraph (a)(ii) or (iii) without leave of the court to do so, unless –
- (a) the trader has served on the Attorney General a notice in writing giving all such information identifying the other person concerned or assisting in the identification as was in the trader's possession; and
 - (b) that notice is served no later than 7 clear days before the date of the hearing.

8 Forfeiture

- (1) The Minister may apply to the Royal Court for an order for the forfeiture of any items on the grounds that there has been a contravention of a prohibition or restriction in this Law in respect of those items.
- (2) The Minister must serve a copy of the application on any person appearing to the Minister to be the owner of, or otherwise to have an interest in, the items, together with a notice advising the person of his or her rights under paragraph (3).
- (3) Any person on whom notice is served under paragraph (2) and any other person claiming to be the owner of, or otherwise to have an interest in, the items is entitled to appear at the hearing of the application and make representation as to why the items should not be forfeited.
- (4) The Court may infer for the purposes of this Article that there has been a contravention of a prohibition or restriction in relation to any items if it is satisfied that any such provision has been contravened in relation to items that are representative of those items, whether by reason of being of the same design or part of the same consignment or batch or otherwise.
- (5) Where it is satisfied that there has been a contravention of a prohibition or restriction in this Law, the Court must order the items in question to be forfeited.
- (6) If any items are forfeited under this Article, the Court must order their destruction or disposal in accordance with any directions it may give, including by releasing them to such person and upon such terms as the Court may specify.

9 Appeals

- (1) A person on whom a notice is served under Article 2, 3 or 4, and any person having an interest in the items in respect of which the notice is served, may appeal to the Royal Court within one month of service of the notice on the grounds that service of the notice on that person, or any requirement in the notice, was unreasonable.
- (2) Where an appeal is made under this Article the Royal Court may direct that the notice that is the subject of the appeal ceases to have effect until the appeal is determined.
- (3) On hearing the appeal the Royal Court may –
 - (a) uphold, dismiss or vary the notice; and
 - (b) make such order as to the costs of the appeal as it thinks fit.
- (4) Rules of Court under the Royal Court (Jersey) Law 1948⁷ may make further provision as to the conduct of an appeal under this Article.

10 Orders to enforce this Law

- (1) The Attorney General may apply to the Royal Court for an injunction (including an interim injunction) or other order, against any person who appears to the Attorney General to be responsible for a contravention of a prohibition or restriction in this Law.
- (2) The Royal Court, on an application under this Article, may grant an injunction or other order, on such terms as it thinks fit, to secure compliance with this Law.

11 Undertakings

- (1) This Article applies where it appears to the Chief Inspector that a person has engaged, is engaging or is likely to engage in conduct which would, if proved, constitute an offence under this Law.
- (2) Where this Article applies, the Chief Inspector may accept an undertaking from the person that the person will not, as the case may require –
 - (a) continue or repeat the conduct;
 - (b) engage in such conduct in the course of the person's business or another business; or
 - (c) consent to or connive in the carrying out of such conduct by a body corporate with which the person is connected.
- (3) Having accepted an undertaking under this Article, the Chief Inspector –
 - (a) may notify the Attorney General of the terms of the undertaking and the identity of the person who gave it; and
 - (b) may accept a further undertaking from the person to publish the undertaking, or may arrange for publication in accordance with Article 12.
- (4) A person is “connected” with a body corporate for the purposes of paragraph (2) if the person is –

- (a) a director, manager, secretary or other similar officer of the body corporate or a person purporting to act in such a capacity; or
- (b) a person who is an associate of the body corporate or has a controlling interest in the body corporate.

12 Publication of undertakings, etc.

- (1) The Chief Inspector may arrange for the publication, in such form and manner as he or she considers appropriate, of details of –
 - (a) an undertaking given to that officer by or on behalf of any person as to compliance with this Law;
 - (b) an application made by the Attorney General for an injunction or other order for the purposes of enforcing this Law; and
 - (c) an undertaking given to, or injunction or other order made by, the Royal Court in proceedings on such an application.
- (2) The Chief Inspector may arrange for the dissemination, in such form and manner as he or she thinks fit, of information and advice concerning the operation of this Law.

13 Liability of officers etc.

- (1) Where an offence committed by an entity listed in paragraph (2) is proved to have been committed with the consent or connivance of any person specified in the case of that entity in paragraph (3), the person specified is also guilty of the offence and liable in the same manner as the entity to the penalty provided for that offence.
- (2) The entities mentioned in paragraph (1) are –
 - (a) a limited liability partnership;
 - (b) a separate limited partnership;
 - (c) an incorporated limited partnership or other body corporate.
- (3) The persons to whom liability for an offence may attach in accordance with paragraph (1) are –
 - (a) in the case of a limited liability partnership, a person who is a partner of the partnership;
 - (b) in the case of a separate limited partnership or an incorporated limited partnership –
 - (i) a general partner, or
 - (ii) a limited partner who is participating in the management of the partnership;
 - (c) in the case of a body corporate other than an incorporated limited partnership, a director, manager, secretary or other similar officer of the body corporate; or
 - (d) any person purporting to act in any capacity described in subparagraphs (a) to (c).
- (4) Where the affairs of a body corporate are managed by its members, paragraphs (1) to (3) apply in relation to acts and defaults of a member in

connection with the member's functions of management as if the member were a director of the body corporate.

14 Guidance

- (1) The Minister may issue guidance as to the application of this Law, and in particular as to the type or technical specification of carrier bags or other items to which this Law does not apply.
- (2) The Minister must publish any guidance issued under this Article, by such means as the Minister reasonably considers will draw the guidance to the attention of those who may be affected by this Law.

15 Regulations and Orders

- (1) The States may by Regulations amend the Schedule.
- (2) Regulations under paragraph (1) may make all such consequential, incidental or supplementary provision, including provision –
 - (a) extending the categories of single-use plastic items to which this Law applies; and
 - (b) amending any enactment (other than the Human Rights (Jersey) Law 2000⁸),
as may reasonably be considered necessary to give full effect to an amendment made by the Regulations.
- (3) The Minister may by Order amend the price specified in relation to any item in the table in paragraph 2 of the Schedule.

16 Citation and commencement

This Law may be cited as the Single-Use Plastics etc. (Restrictions) (Jersey) Law 202- and comes into force –

- (a) if the day on which this Law is registered falls before the end of the period of 6 months beginning with the day on which this Law is adopted by the States, immediately after the end of that period; or
- (b) if the day on which this Law is registered falls after the end of the period mentioned in sub-paragraph (a), 7 days after that day.

SCHEDULE

(Articles 2 and 3)

RESTRICTED ITEMS**1 Prohibited items**

Type of item	Technical specification
Lightweight plastic carrier bag	With or without handle, made of plastic with a wall thickness of 15 microns and above but less than 50 microns
Very lightweight plastic carrier bag	With or without handle, made of plastic with a wall thickness of less than 15 microns and not meeting the “OK compost HOME” (or equivalent) certification
Paper carrier bag	With or without handle, made of paper to a weight of 50 gsm and above but less than 170 gsm

2 Restricted items and their price

Technical specification	Price (inclusive of GST, if applicable)
Carrier bag with or without handle, made of recyclable plastic, with a wall thickness of 50 microns or above	£0.70
Carrier bag with or without handle, made of recyclable paper to a weight of 170 gsm or above	£0.70

ENDNOTES

Table of Endnote References

1	<i>chapter 24.660</i>
2	<i>chapter 05.925</i>
3	<i>chapter 24.660</i>
4	<i>chapter 05.610.50</i>
5	<i>chapter 05.090</i>
6	<i>chapter 23.750</i>
7	<i>chapter 07.770</i>
8	<i>chapter 15.350</i>