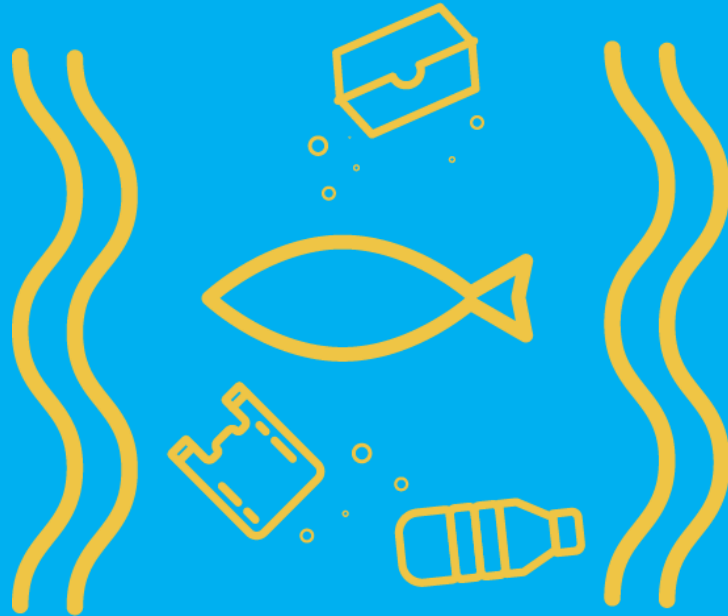


Jan 2022



# Climate Change (Single-Use Plastics) Regulations 2022 Consultation Report

# Climate Change (Single-Use Plastics) Regulations 2021 Consultation Report

## Contents

1. Overview.....	2
2. Introduction.....	2
3. Consultation .....	2
4. Description of responses and respondents.....	3
5. Consultation results.....	3
6. Regulation 12 - Transitional provisions.....	13
7. Regulation 6 - Authorised officer & Regulation 7 - Powers of authorised officers.....	13
8. Regulation 8 - Civil sanctions - Schedule 3 - Enforcement and Civil Sanctions.....	14
9. Guidance.....	15

## 1. Overview

This report summarises the consultation responses to proposed regulations that would prohibit the sale, supply, manufacture and distribution of a number of single use plastic items, oxo-degradable plastics and rinse off personal care products that contain microbeads.

## 2. Introduction

Plastic pollution is understood to be a critical global issue, one that threatens the environment, wildlife and human health, and significantly contributes to global greenhouse gas emissions.

As such, in July 2019, Tynwald approved [‘The Single Use Plastic Reduction Plan for the Isle of Man Community’ – GD No: 2019/0040](#) which includes the following policy commitments:

*‘A legislative ban on the sale and distribution of the following single use plastic items: plates, plastic carrier bags, straws (with necessary exceptions i.e. medical use), stirrers, cutlery, polystyrene food containers for immediate use, polystyrene cups, plastic stemmed cotton buds, balloon sticks and Oxo-degradable plastics’*

And

*‘A legislative ban on the manufacture, sale and distribution of rinse-off personal care products that contain plastic micro beads’*

Since the critical issue of plastic pollution came to the forefront of global attention in 2017, there has been a significant rise in global political and corporate commitments, and community action to reduce the use of unnecessary single use plastic. Many local businesses and organisations have already made the choice to remove unnecessary single use plastic items from their premises. The proposed regulations would ensure that all other organisations (bar necessary exemptions) follow suit.

As much of the UK and EU has already prohibited, or is in the process of prohibiting, many of the items listed in the Community Plastics Plan, introducing these regulations aligns with surrounding jurisdictions. Passing this legislation would ensure that the Isle of Man is one of the first places in the British Isles to ban all the items listed under the EU Plastics Directive, leading the fight against plastic pollution alongside jurisdictions such as Scotland.

The Department of Environment, Food and Agriculture consulted on regulations to enact these policy commitments. These regulations, if passed, would affect businesses and potentially individuals within the community. We consulted to seek views on the prohibitions, exemptions, enforcement and civil sanctions proposed.

This report summarises the responses received and outlines several proposed changes to the regulations following the results of the consultation.

## 3. Consultation

The consultation opened on July 16<sup>th</sup> 2021 and closed, after 6 weeks, on the September 1<sup>st</sup> 2021. A press release was issued and articles were released via newspapers, online news platforms and radio news broadcasts. The consultation was also shared on social media. A

drop in session was held at the Royal Agricultural Show.

The consultation documents were made available online on the Isle of Man Government Consultation Hub and a number of PFD versions of the consultation were shared via email.

#### **4. Description of responses and respondents**

In total there were 688 responses to the consultation, 686 via the Government's consultation hub platform, and two responses via email. There were 36 responses from individuals responding on behalf of an organisation, all other responses were individual responses. A total of 598 respondents gave permission for their responses to be published.

Organisational respondents comprised of catering, hospitality, tourism and retail (n=10), other business organisations (n=8), environmental charities, third sector and community organisations (n=9); medical and STEM sector organisations (n=3); local authorities (n=2); education sector (n=1); packaging manufacturers (n=1); and a small group of other organisations that did not fit into any of the preceding categories (n=2).

For a full break down of all respondents employment sectors see Appendix 1.

#### **5. Consultation results**

This section of the report summarises the responses for each section within the consultation and outlines any changes to regulations following the consultation. Where the regulations have not been changed as a result of consultation responses, this section provides an explanation of why.

##### **5.1 Regulation 3 – Interpretation**

Regulation 3 describes what the terms used in the Regulations mean.

Just over 90% of the respondents were content with the meanings of the terms set out in the draft regulations, approximately 6% didn't know and just over 3% were not content. Respondents that were not content with the terms highlighted typographical errors, which have been addressed; were not supportive of the regulations in general or didn't think the regulations went far enough in prohibiting plastic items.

##### **5.2 Regulation 4 - Prohibition - Single-use plastic items Schedule 1 - Prohibited single-use plastic items**

Regulation 4(1) makes it an offence to **sell or supply** the single-use plastic items listed in Schedule 1, subject to certain exceptions. Please note that the possession and use of such items is NOT prohibited by the Regulations, which means that individuals that own existing single use plastic items would not be breaking the law when the regulations come into effect, which was a concern of some respondents.

There was strong support for market restrictions to be introduced on single-use plastics. On average 92.9% of all respondents were in favour of a ban on the items specified in the consultation paper (figure 1). Among organisations, the proportion in favour of a ban ranged from 86% for single use plastic straws, bags and Oxo-degradable plastics to 92% for polystyrene food containers and cups and plastic cutlery (figure 1).

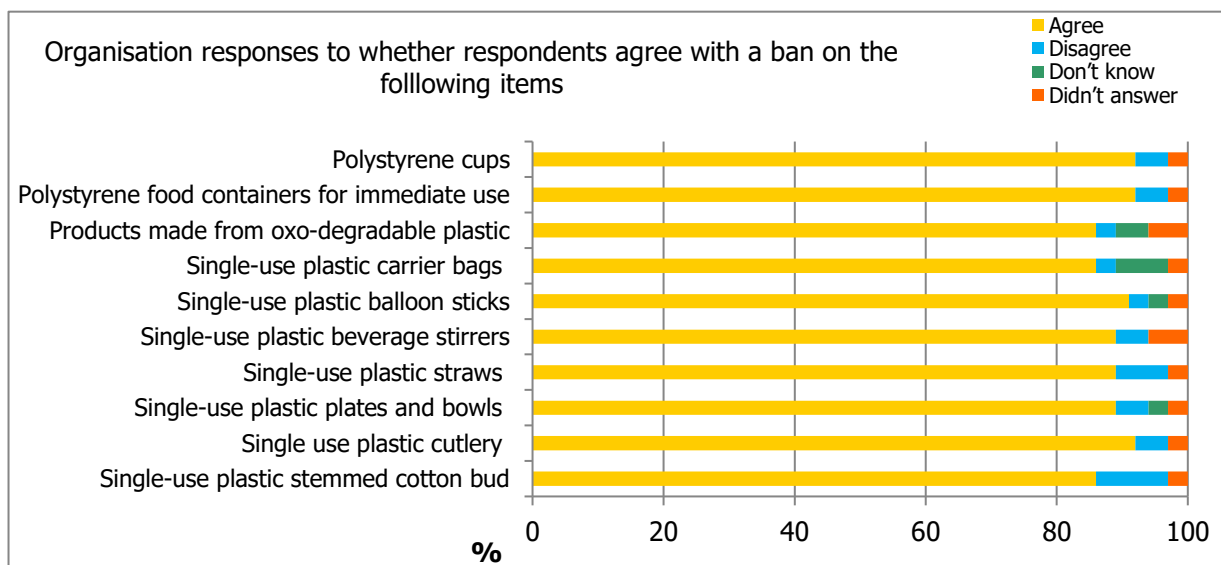
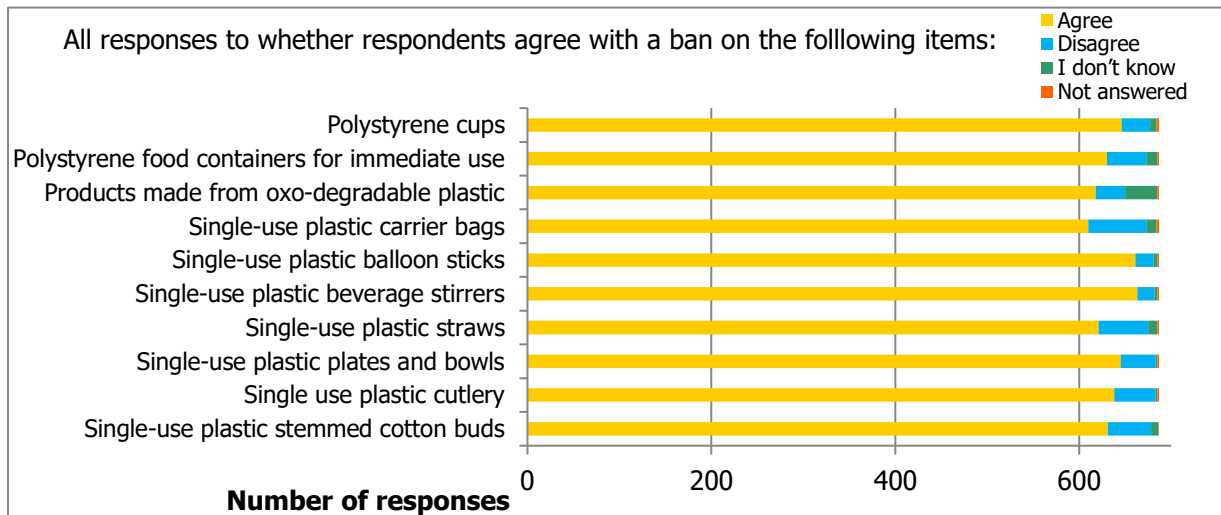


Figure 1 consultation responses on proposed regulations to prohibit the sale and supply of various single use plastic items (a) all responses – N (b) organisation responses - %.

### Responses in favour of all the proposed market restrictions

72% of respondents were in favour of banning all of the items proposed. Some of those in favour of all the restrictions proposed that additional plastic items should be included in the ban; these comments are incorporated into the section below on additional items for future market restrictions.

### *Views in favour of restrictions on most but not all the proposed items*

Of the respondent that supported restrictions on most (but not all) of the single-use plastic items specified in the consultation paper, often specific issues were raised in relation to banning certain items, below summarises some of the key concerns.

#### *Impact on disability*

Individuals in this group often raised concerns about the possible implications of the proposed restrictions for disabled people, specifically in relation to single use plastic straws, and other single use plastic items needed in a medical setting, such as plastic stemmed cotton buds.

We understand that some people with disabilities require such items for medical reasons, and as such proposed exemptions to the regulations that provide for this need, they are as follow:

- Retail pharmacy businesses may supply single-use plastic straws on request but must not display or advertise them
- Catering establishments may supply single-use plastic straws on request but must not display them
- The supply of single-use plastic straws that are medical devices or are used for medical purposes is not prohibited
- The supply of a single-use plastic straw by any of the listed establishments below is not prohibited:
  - an adult care home or adult day care centre
  - a child-related care service
- The supply of single-use plastic stemmed cotton buds that are medical devices or are used for medical purposes is not prohibited

These exemptions mimic the provisions outlined in the UK regulations that prohibit the sale and supply of single use plastic straws and plastic stemmed cotton buds.

We also specifically sent the consultation to 24 local organisations that provide services for those with disabilities, to ensure we consulted specifically on this issue, and received no feedback that the proposed regulations would negatively impact those with a disability.

#### *Oxo-degradable plastics*

Some respondents raised concerns about banning oxo-degradable plastics items, stating that they didn't know enough about them. Some respondents suggested that oxo-degradable plastics could provide a solution in the transition away from single use plastic items.

Oxo-degradable plastics are plastics with an additive that causes them to break down into smaller pieces much quicker in the presence of oxygen than conventional plastic material.

However, evidence shows that oxo-degradable plastics actually just fragment into small

pieces, including microplastics. The time it takes to finally break down into naturally occurring molecules can take far longer than stated by manufacturers, meaning that they have potential to damage the environment and wildlife in that time. For this reason, the Isle of Man Government maintains the proposed ban on products manufactured from oxo-degradable plastics, in line with the EU Plastics Directive.

Source: New Plastics Economy: <https://ellenmacarthurfoundation.org/oxo-statement>

### *Single use plastic bags*

Just over 88% of respondents agreed that single-use plastic bags should be banned. Despite having strong support, of all the items proposed to be banned this had the lowest level of support. Those opposed to the ban on single use carrier bags argued that single use carrier bags can be used for other purposes, and that a taxation rather than a ban would work better noting that a complete ban may encourage people to use more 'bags for life'. Taxation is complex and alternatives to single use carriers bags are cheap and readily available, and while they can be used for other purposes a large amount are either disposed of after one use or enter the environment.

### *Responses opposed to market restrictions*

A final small group of respondents opposed the market restrictions. Only 7 respondents disagreed with a ban on all the proposed items. Others that disagreed with a ban on at least half of the specified items argued that in certain contexts there were no better alternatives available, and disagreed that the alternatives to single use plastic items were sufficient, such as wooden cutlery and paper straws. They opposed what they saw as a 'blanket, one-size-fits-all' approach to dealing with single-use products made of plastic, in addition to seeing the regulations as 'greenwashing' or 'draconian' in nature, some respondents also suggested that the Island is too small to make an impact on global plastic pollution and should therefore do nothing.

While our impact may be small on a global scale we are committed to contributing to the global fight against plastic pollution. The exceptions provided for in the regulations ensure that this is not a blanket, one-size-fits-all approach but one that has been tailored to ensure that genuine needs continue to be met.

### *Additional comments on restrictions*

Some respondents were concerned that viable and affordable alternatives were not available for some single use plastic products. However, many local businesses and organisations have already made the choice to remove unnecessary single use plastic items from their premises. Similarly surrounding jurisdictions have made similar commitments to ban the full list of single use plastic items, such as Scotland (All items – June 2022), England (straws, cotton buds and stirrers – 2020, plates, cutlery and polystyrene cups – April 2023) which is likely to increase demand for additional alternative products, and potentially decrease overall cost. Therefore we feel confident that this is the right time to bring in regulations of this nature, to ensure the Isle of Man is not left behind in the transition away from unnecessary

single use plastic items. In addition the Regulations provide a six month transitional period to allow businesses to use up existing stock.

### 5.3 Consideration of additional market restrictions

Overall, there was strong support for market restrictions on additional single-use plastic items, with more than 65.94% of respondents in favour. Organisations were also supportive of this proposal; with more than 69% doing so. We received 656 suggestions in total and those suggestions are shown in figure 2, summarised into 11 main categories.



Figure 2 consultation responses on whether additional single use items should be prohibited in addition to list proposed.

In addition to the above, 41 respondents indicated that all single-use plastic items should be banned and 14 respondents indicated that all single-use plastic items for which there is an alternative should be banned.

Respondents who supported future restrictions on additional items highlighted the harm caused by single-use plastics – in terms of both long-term environmental damage and littering – and the importance of reducing reliance on plastic as part of a broader move to a 'greener', low carbon economy. Some said action was needed as a matter of urgency, while others favoured a more phased approach.

Respondents who were opposed to or had reservations about additional market restrictions commented that single-use plastic served an important purpose (for example, prolonging the shelf life of foods) and that effective alternatives were not available, there were other effective ways of dealing with the issue of problematic single-use plastic such as improved recycling, education and awareness, taxation etc.; and noted that non-plastic alternatives could also cause environmental harm.

In relation to certain items we are somewhat limited in what we can additionally influence, because we import many of our goods from surrounding jurisdictions. However, items were



suggested which could potentially be added to future Regulations. Further research is needed to identify potential impacts before doing so. For example, a significant number of responses called for bottled water to be banned but, while there may be many circumstances in which bottled water is not necessary, there are others in which it would be essential, such as the disruption or contamination of mains water supply.

A ban would not be appropriate for other suggested items, such as female menstrual products. However, it would be beneficial to provide education and raise awareness of reusable alternatives to help reduce the use of plastic-based items. Successful schemes providing free reusable period products have been undertaken in other jurisdictions, for example #trialperiod by Zero Waste Scotland which resulted in 67% of those involved making a permanent or partial switch to reusables.

Single use plastic party supplies, and in particular balloons, were another common suggestion. While these items are not generally viewed as necessities a ban could have significant impact on certain businesses, who may not have responded to this consultation.

#### **5.4 Regulation 5 - Prohibition – Microbeads**

Regulation 5 would introduce a ban on the manufacture or supply of rinse-off personal care products that contain micro beads. Microbeads are defined as *'any water-insoluble solid plastic particle of less than or equal to 5mm in any dimension'*. These tiny pieces of plastic (micro-plastics) are sometimes added to products such as face/hand washes, shower gels and toothpaste. These microbeads are rinsed off and enter water systems via sewerage systems where they cause pollution and are ingested by marine animals.

The manufacture and sale of rinse-off personal care products containing microbeads is prohibited in the UK.

Over 95% of respondents agreed with the proposed ban on manufacturing, sale and supply of rinse-off personal care products containing microbeads, just over 2% disagreed, and 1.7% didn't know.

Respondents were asked if any other sources of micro-plastics should be considered, there were 306 responses to this question, figure 3 summarises those responses.

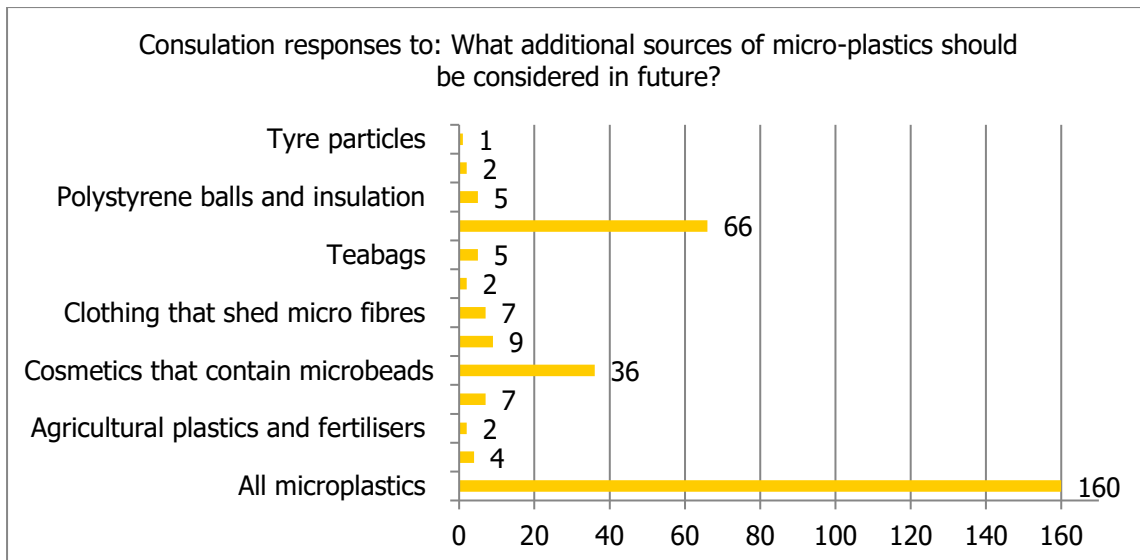


Figure 3 Isle of Man Government consultation responses to whether additional sources of microplastics should be considered in future.

## Schedule 2 - exemptions

### Part 1 - Single-use carrier bags

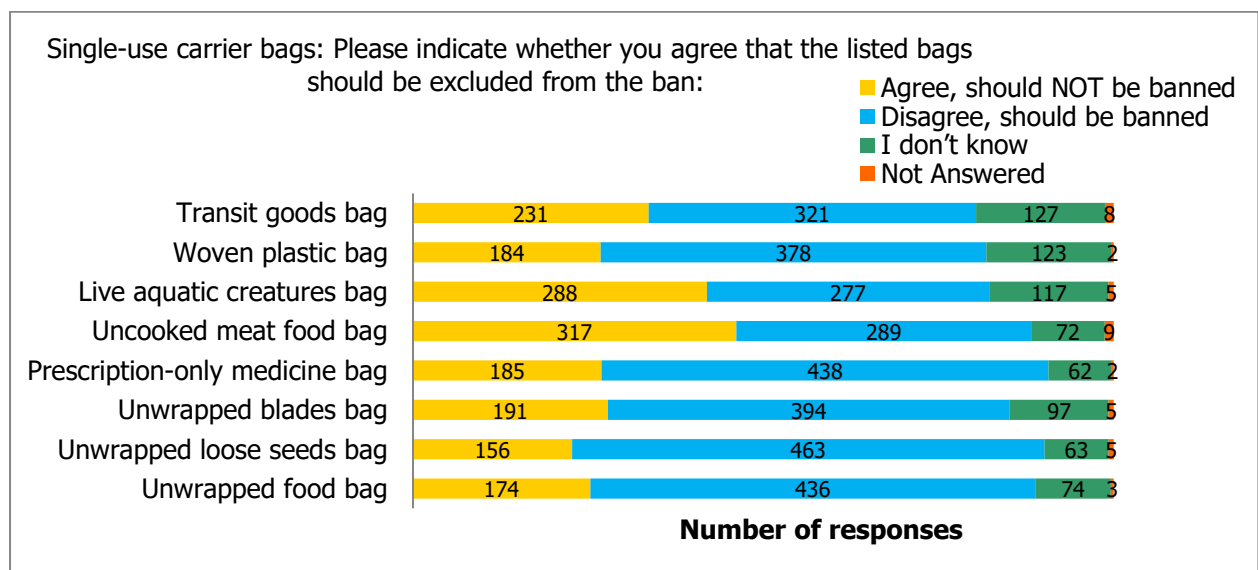


Figure 4 Consultation responses on exemptions to a ban on single use carrier bags.

There was less support for the exemptions in the proposed regulations, showing how strongly the respondents supported the proposed bans. However, on review it was felt that the majority of the exemptions proposed are necessary, and ensure that this is not a blanket, one-size-fits-all approach but one that has been tailored to ensure that genuine health, safety and access needs continue to be met.

However, it is also important that we do not include exceptions where they are neither necessary nor beneficial. After obtaining agreement from the Department of Home Affairs and the Isle of Man Constabulary, and in line with the consultation responses, the

exemption for single use plastic bags for unwrapped blades will be removed from the Regulations. Other more suitable materials (such as cardboard) are readily and cheaply available for this purpose.

Importantly, this would not stop or discourage retailers from wrapping blades. It also would not change any of the existing provisions around the sale or carrying of knives/blades.

### *Bags for life - returnable multiple reuse bags*

The consultation asked respondents whether returnable multiple reuse bags or 'bags for life', should be included as part of the ban.

Returnable multiple reuse bags 'Bags for Life' are thicker than conventional single-use plastic carrier bags. The manufacturing process therefore requires more resources and contributes more to emissions of greenhouse gases.

Evidence collected by the Environmental Investigation Agency (EIA) and Greenpeace indicates that these types of bags are actually contributing to increased plastic pollution as they are frequently treated as a single-use item and therefore enter the waste stream long before the end of their intended life span.

Considering the regulations propose banning single use plastic carrier bags, there is potential for an increase in the sale and use of 'bags for life' in this manner.

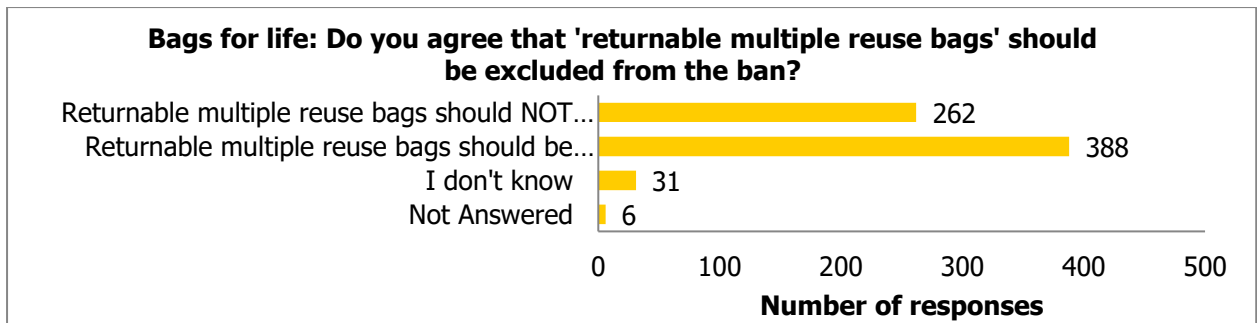
'Returnable multiple reuse bags' were defined as a bag which is sold to the end user and which:

- is intended to be returnable to the seller from whom it was purchased to be replaced free of charge;
- is made from material the thickness of which is not less than 50 microns but not greater than 70microns; and
- disregarding the width of any gussets, or the height of any handles extending above the main body of the bag: a. has a width and height greater (in each case) than 404 mm; and b. has a width or height greater (in either case) than 439 mm.

It does not include woven plastic bags or bags of any other description.

Retailers would still be able to sell other types of more durable reusable bags that are less likely to be treated as single-use.

Over 56% of respondents thought that returnable multiple reuse bags should be banned (N – 388), 38% of respondents (N – 262) thought that they should not be banned, and 4.5% didn't know.

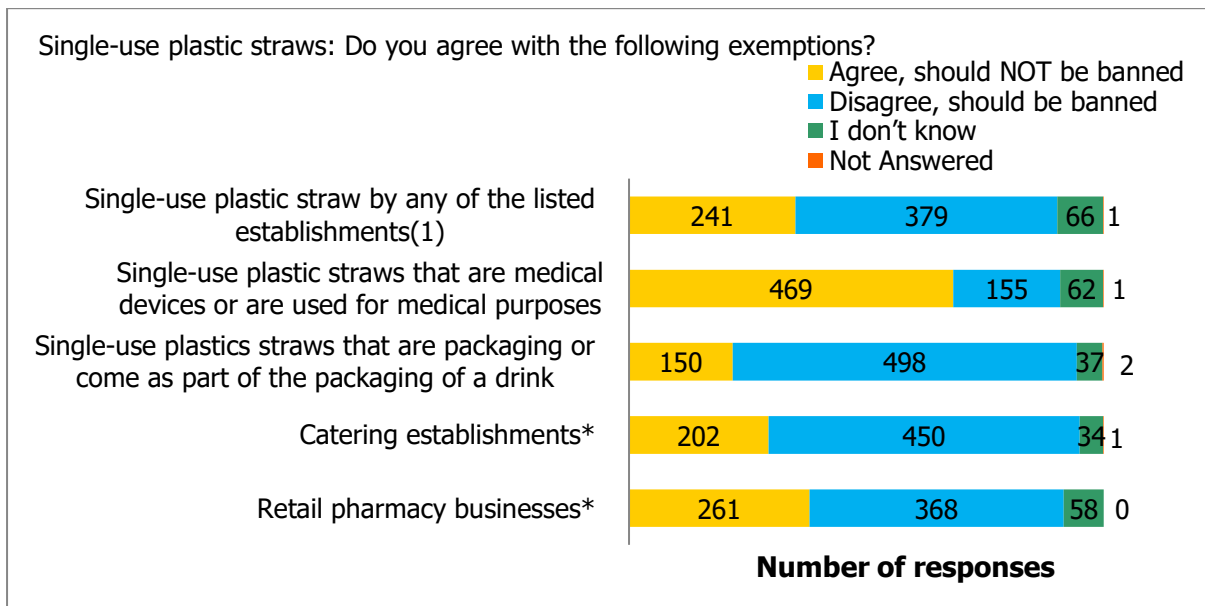


**Figure 5 consultation responses regarding whether 'bags for life' should be banned as part of regulations prohibiting the sale and supply of some single use plastic items.**

Whilst it is evident that a majority of respondents to the consultation support a ban of 'bags for life', it should be noted that we plan on taking a different approach to the UK in regard to banning single use carrier bags rather than taxing their usage. As such Government has decided to see how the initial regulatory approach develops, working closely with local businesses and plastic pollution NGO's to monitor trends in usage and whether more 'bags for life' are being collected in the environment as litter. This information will be used to make a considered decision at a later date.

*Part 2 - Single-use plastic straws*

The consultation asked whether respondents agreed with certain exemptions in relation to a ban on single use plastic straws (figure 5).



**Figure 6 consultation responses on exemptions to single use plastic straw prohibitions. (1) (a) adult care home or adult day care centre; (b) a child-related care service; (c) a prison or other place of detention; or (d) a school. \*may supply single-use plastic straws on request but must not display or advertise them.**

The majority of respondents agreed that there should be exemptions for the use of single use plastic straws for medical devices or medical purposes. However the majority of respondents did not agree that (a) adult care home or adult day care centre; (b) a

child-related care service; (c) a prison or other place of detention; or (d) a school should be exempt from the regulations. Similarly the majority of respondents disagreed that retail pharmacy businesses and catering establishments should be exempt.

These exemptions have been included to ensure that people who require a straw because of a disability or medical need are able to access one. However additional clarification has been added to the regulations to ensure that single use items are only exempt in a prison or school setting for disability or access needs.

Catering and retail pharmacy businesses must not display or advertise single use plastic straws, but would have some available on request.

A majority of respondents also didn't think that single use plastic straws that are part of the packaging of a drink should be exempt from the regulations. As the Isle of Man imports most of our food and drink we have limited scope to influence this through on-Island policy.

### Part 3 - Single-use plastic stemmed cotton buds

The consultation asked whether the following exemptions should be considered in relation to a ban on single use plastic stemmed cotton buds (figure 6).

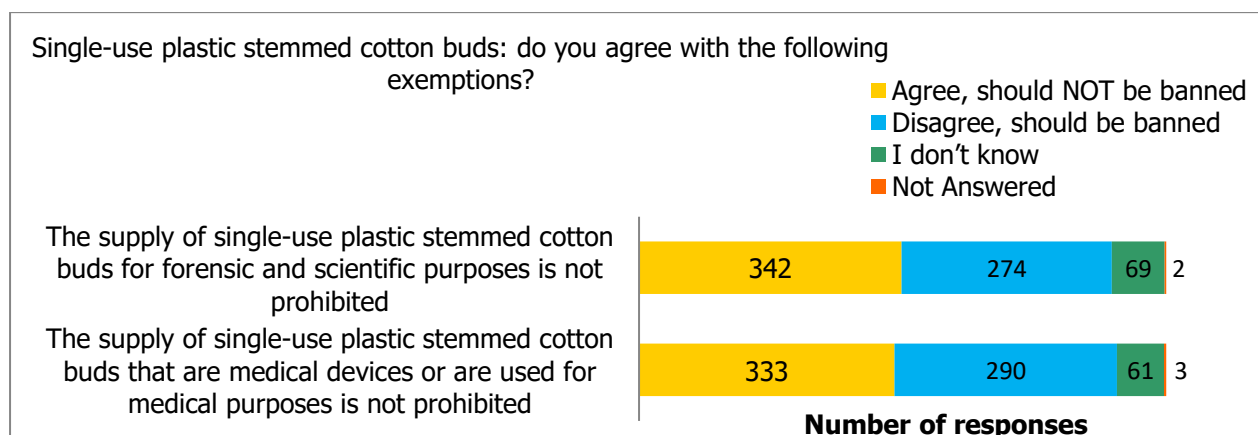


Figure 7 consultation responses on exemptions to single use plastic stemmed cotton bud prohibitions.

Responses to this exemption was split, with approximately 50% agreeing that the supply of single use plastic stemmed cotton buds should be exempt for scientific and forensic purposes and for medical devices and purposes, and 40% disagreeing.

These exemptions have been included to ensure that people who require a plastic stemmed cotton bud because of a disability, medical need or forensic or scientific requirement are able to access one.

### Further exemptions

Over 74% of respondents determined no other exemptions were needed, 15% didn't know and just over 8% of people thought additional exemptions were required. Additional proposed exemptions including plastic cutlery for health and hygiene reasons, single use plastic items when used in an emergency situation, such as by Civil Defence, or

additional single use plastic items required in the recovery and storage of forensic evidence.

Alternative single use cutlery is readily available and poses no risk to health or hygiene. Following discussions with the Department of Home Affairs in relation to civil defence and emergency situations, it is understood that non-plastic single use alternatives are available and suitable for such occasions. Additional single use plastic items required in the recovery and storage of forensic evidence are not prohibited by the regulations.

## 6. Regulation 12 - Transitional provisions

Regulation 12 proposed providing 6 months for businesses to use up existing stock of prohibited single-use plastic items and products containing microbeads before the sale or supply of those items or products becomes an offence.

The majority of respondents (72%) agreed that 6 months was a sufficient time for businesses to adjust to the changes, just over 18% thought that 6 months was not long enough and almost 9% thought 6 months was too long (figure 7).

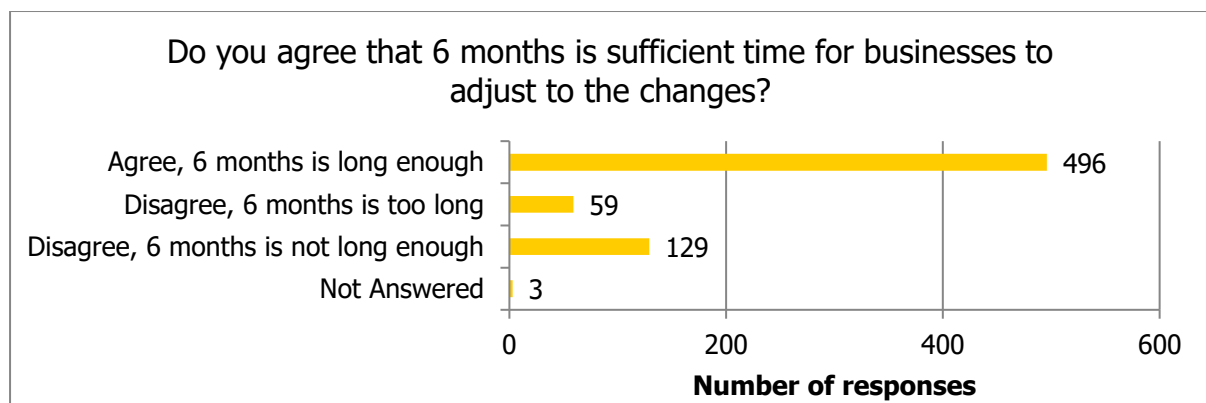


Figure 8 consultation responses to whether 6 months is a long enough lead time for businesses to adjust to proposed regulations on single use plastics.

Of the 129 responses who said 6 months was not long enough, key arguments included that the provisions did not give enough time to use up existing stock, one catering establishment outlined that non-perishable stock is purchased 12 months in advance. Others outlined the potential financial implication of moving to sustainable alternatives so soon after the covid-19 pandemic.

England's regulations give a 6 months transitory period, and Scotland intends to have no transitory period, outlining that the period between the motion being laid out and the regulations being enacted would act as a suitable transitory period (approx. 6 months). The Isle of Man Community Plastics Plan was published in 2019 outlining the intended policy commitment, as such 6 months is considered an adequate transitory period for the Regulations.

## 7. Regulation 6 - Authorised officer & Regulation 7 - Powers of authorised officers

Regulations 6 & 7 allow the Department to authorise officers and provides those officers with the power to enter premises, with the owner's consent, and in the case of a

residential property with 24 hours' notice. When entering a property an officer then has various powers to investigate and collect evidence.

These powers can only be used if the officer "has reasonable grounds for suspecting that an offence has been committed or there has been any other contravention of these Regulations" and where consent for entry is denied a warrant must be obtained.

Over 83% of respondents agreed with this approach, and 15.8% of respondents disagreed. Those who disagreed felt this approach was 'heavy handed' and many had particular issue in relation to the power to enter a residential property. Some of the responses were concerned about the power of entry being used in relation to individuals in possession of single use plastics. However, this is not the case as the powers of enforcement apply only to the sale and distribution of such items. The Regulations do not prohibit possession of any item. The only circumstance in which a property would need to be entered would be to investigate the seller or supplier – not the recipient of the items. Others who disagreed were against the regulations in general.

## **8. Regulation 8 - Civil sanctions - Schedule 3 - Enforcement and Civil Sanctions**

Regulation 8 and Schedule 3 provide the Department with the ability to use civil sanctions in relation to an offence under these Regulations.

Civil sanctions are an alternative to criminal proceedings and where they are used the person who committed the offence does not receive a criminal record.

The civil sanctions which can be used under these Regulations are 'variable monetary penalties' (a fine) and 'compliance requirements' (actions to 'make good' the effects of the offence and to ensure the offence does not continue or recur).

Where civil sanctions are imposed and complied with a person cannot then be criminally charged for the same offence.

In terms of the ability to impose 'variable monetary penalties', 82.5% of respondents agreed with these provisions, 6.8% didn't know and 10.5% disagreed. Of those who disagreed, respondents thought the approach was not tough enough, and all breaches in regulation should be a criminal offence, others noted the potential for the approach to provide a 'get out' and an incentive to ignore the regulations if they could afford to pay the fine.

In terms of a 'compliance requirement', over 91% of respondents agreed with this approach, 5.5% disagreed and 3% didn't know. Those who disagreed felt that only a monetary penalty should be considered, or disagreed with the regulations in general.

In setting the amount of a variable monetary penalty the Department must have regard to the financial benefit (if any) arising from the contravention, the amount payable must not exceed 10% of the annual turnover in the Isle of Man of the person upon whom it is served and the penalty must not exceed level 5 on the standard scale (currently £10,000). These parameters would ensure that any penalty which is served would be proportional to the

offence committed.

In terms of setting the amount of a variable monetary penalty, over 69% of people agreed with this approach, 14% disagreed and 15% didn't know.

### *Paragraph 2 - Representations and objections*

Paragraph 2 of Schedule 3 enables a person who has received an enforcement notice from the Department imposing a variable monetary penalty or compliance requirements to make representations or objections.

The Department must consider the representations or objections within 28 days and may decide to lessen or withdraw the penalties imposed. 84.5% of respondents agreed with this approach, over 6% disagreed and 8.5% didn't know.

### *Paragraph 3 - Enforcement undertakings*

Paragraph 3 of Schedule 3 enables a person who has received an enforcement notice from the Department imposing a variable monetary penalty or compliance requirements to submit an 'enforcement undertaking'.

An enforcement undertaking is a list of actions the person proposes to undertake instead of paying the variable monetary penalty or undertaking the compliance requirements imposed by the Department. This might include reimbursing another party who has been affected by the offence, undertaking actions to ensure the offence does not happen again, such as training or procedural changes within their business or donating to a relevant charity to address the affect their offence may have had on the environment.

An enforcement undertaking must be submitted within 28 days of receiving the enforcement notice.

The Department can accept or reject the enforcement undertaking and, if it is rejected, the person must comply with the original enforcement notice. Over 77% of people agreed with the approach, over 10% disagreed and 11% didn't know. Respondents noted that the Department should give reasons for rejecting an enforcement undertaking. Others noted that 28 days may not be long enough for businesses, and suggested an extension should be granted under certain circumstances.

## **9. Guidance**

There were 436 responses to this question, these comments are being analysed and will be used to develop comprehensive guidance alongside of the regulations.



## 10. Appendices

### Appendix 1: Respondents

#### Employment sector – Organisation respondents

Organisation sector	N	%
Catering/hospitality - e.g. hotelier, restaurant or café owner or worker, mobile caterer	5	14
Medical - e.g. nurse, doctor, pharmacist, carer, vet	1	3
Education - eg. teacher, classroom assistant, student	1	3
STEM - eg. engineer, laboratory worker, forensic scientist	2	5
Retailer - eg. shop owner or worker, on-line seller	4	11
Other	23	64
<b>Total</b>	<b>36</b>	<b>100</b>

#### Employment sector – all respondents

Employment Sector - all response	N	%
Catering & hospitality e.g. hotelier, restaurant or café owner or worker, mobile caterer	26	4
Medical e.g. nurse, doctor, pharmacist, carer, vet	53	8
Education e.g. teacher, classroom assistant, student	85	12
STEM e.g. engineer, laboratory worker, forensic scientist	45	6
Retailer e.g. shop owner or worker, on-line seller	25	4
Prefer not to say	75	11
Other	326	47
Not Answered	53	8
<b>Total</b>	<b>688</b>	<b>100</b>

