

# ENVIRONMENT (WALES) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 – Charges for Carrier Bags**

##### *Section 57 – Application of proceeds*

222. Under section 57(1), carrier bag regulations must require sellers to apply the net proceeds of the charge to charitable purposes which relate to environmental protection or improvement and which benefit Wales. This is subject to subsection (2) which provides that regulations must include an exception for sellers who have existing arrangements where they apply money earned by selling carrier bags to other charitable purposes.
223. "Net proceeds of the charge" is defined in section 63 to mean the gross proceeds of charge less any amount that the regulations may specify such as, for example, administration costs. The "gross proceeds of the charge" means the amount that the seller receives as a result of the minimum charge. It does not include money received which is over and above the minimum charge so if the sellers charges 8p for a bag and the minimum charge is 5p the gross proceeds of the charge will be 5p.
224. The net proceeds must be applied to "charitable purposes", which are defined in subsection (8) as having the same meaning as in section 2 of the [Charities Act 2011 \(c.25\)](#). The purposes are described in section 3 of that Act and include the advancement of environmental protection or improvement.
225. Under subsection (8) regulations may modify the definition of "charitable purpose" where the Welsh Ministers consider it necessary or expedient for securing an appropriate application of the net proceeds of the charge. This power might be exercised, for example, where the definition in section 2 of the Charities Act has been amended and the new definition is considered no longer appropriate for the purpose of the regulations.
226. Where sellers have existing arrangements before the regulations come into force and are voluntarily donating money they receive for carrier bags to charitable purposes that do not fall within subsection (1), subsection (2) provides that the regulations must include an exception enabling them to donate the net proceeds of the charge to those purposes. This is subject to provision made by the regulations under subsections (2) and (3).
227. Under subsection (2)(a), the regulations must specify a period during which the seller must have made payments to other charitable purposes. For example, the regulations might provide that the exception only applies if a seller has made a payment during the year before the regulations come into force.
228. Under subsection (2)(b), the regulations must require sellers to give notice that they wish to continue with these arrangements in order to rely on the exception. Subsection (3) provides that regulations may include details about how the exception applies such as how notice must be given, the information contained in it and any conditions.

*These notes refer to the Environment (Wales) Act 2016  
(c.3) which received Royal Assent on 21 March 2016*

229. Subsection (4) provides that regulations under subsection (1) may give the seller discretion to choose the charitable purpose or may specify one or more charitable purpose (but it must still be a charitable purpose falling within subsection (1))
230. Subsections (5) provides for the regulations to make provision about the arrangements for applying the net proceeds and the persons who may accept those proceeds on behalf of the charity. Under subsection (6), the regulations may give the Welsh Ministers powers to enforce the regulations if the seller fails to apply the net proceeds as required.