



Proposal to ban the manufacture and sale of plastic-stemmed cotton buds in Scotland

Consultation Paper

Consultation Open 27 April – 22 June 2018

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PART 1 – ABOUT THIS CONSULTATION

Topic of this consultation

This consultation is seeking the views of stakeholders on the addition of secondary legislation under the Environmental Protection Act 1990 to introduce a ban on the manufacture and sale of plastic-stemmed cotton buds in Scotland. The proposed bans aim to further protect our seas from plastic pollution.

Scope of this consultation

The proposal outlined in this consultation relates to cotton buds that have a stem made with or containing plastic. “Plastic” means a synthetic polymeric substance that can be moulded, extruded or physically manipulated into various solid forms and that retains its final manufactured shape during use in its intended applications. The proposed ban would cover the manufacture of these items, their supply, offer to supply or possession for the purpose of supply.

Geographical extent

Environmental protection is a devolved matter and this consultation applies to the introduction of bans on the manufacture and sale of plastic-stemmed cotton buds in Scotland only. The appropriate administration should be approached for further information of their intentions regarding these products in other parts of the UK.

Business and Regulatory Impact Assessment

There has already been a move from plastic-stemmed cotton buds to biodegradable alternatives by many of the larger retailers and manufacturers, showing that the alternatives are commercially viable. Initial investigations have concluded that there are no manufacturers of these products in Scotland, however these products are still available to buy. It is therefore expected that due to the previous conversion of many businesses to alternative products that there will be minimal impacts resulting from the proposed bans. This consultation asks a question in relation to this issue to help prepare the necessary Business and Regulatory Impact Assessment which will be needed to inform the parliamentary process.

Audience

Anyone may reply to this consultation. The Scottish Government would particularly like to hear from organisations and individuals involved in and concerned with the production or sale of cotton buds, whether plastic-stemmed or not.

Those who have an interest include cotton bud manufacturers, trade representatives, retailers and wholesalers, environmental groups, waste management organisations, scientists and members of the public.

Body Responsible for this consultation

The Marine Litter Team of Marine Scotland, part of the Scottish Government is responsible for this consultation.

Duration

Reflecting the importance of the issue of marine plastic pollution, widespread awareness amongst relevant stakeholders and a wish to introduce legislation at the earliest opportunity, this consultation will run for an abbreviated period of eight weeks. 27 April – 22 June 2018.

How to make an enquiry

If you have any queries about this consultation please contact Marine Scotland's Marine Litter Team at MSCottonBuds@gov.scot or call 0131 244 3392.

The Scottish Government consultation process

Consultation is an essential part of the policy-making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work. You can find all our consultations online: <http://consult.scotland.gov.uk>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of responses for every consultation. Responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Responding to this consultation

We are inviting responses to this consultation by 22 June 2018. Please respond to this consultation using the Scottish Government's consultation platform, Citizen Space. You can view and respond to this consultation online at <https://consult.gov.scot/marine-scotland/cotton-buds>. Responses can be saved and returned to while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 22 June 2018. If you are unable to respond online, please send your response with **a completed Respondent Information Form** (see "Handling your Response" below) to:

Cotton Bud Consultation
Scottish Government
Marine Litter Team, 4th Floor
5 Atlantic Quay
150 Broomielaw
Glasgow
G2 8LU

Handling of your response

If you respond using Citizen Space (<http://consult.scotland.gov.uk/>), you will be directed to the Respondent Information Form. Please indicate how you wish your response to be handled and, in particular, whether you are happy for your response to be published. If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Next steps in the Process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.scotland.gov.uk>. If you use Citizen Space to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to inform the decision making process. Responses will be published where we have been given permission to do so.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to MSCottonBuds@gov.scot

PART 2 – BACKGROUND

Introduction

Marine litter is a global challenge, affecting the world's oceans, seas, coastlines and shores. It is defined as any solid material which has been deliberately discarded or unintentionally lost on beaches, shores or at sea, including materials transported into the marine environment from land by rivers, draining or sewage systems or winds¹. The problem is largely caused by a range of very slowly degradable material such as plastics, metals and glass. The most commonly found litter at sea and washed ashore is plastic²³.

Marine plastics have a negative impact on our marine environment, our economy and they threaten human health. Larger plastic items in our seas can entangle animals, smother habitats, damage tourism and pose a serious risk to life and livelihood by causing breakdown of vessels at sea. As a result of sunlight and wave exposure, plastics become fragmented, making their way into the marine ecosystem by ingestion, consumed by creatures as small as plankton to as large as sea mammals. Plastic fragments cause obstruction and physical damage to the digestive tracts of animals which eat them and can result in death, plastics may also act as a vector for contaminants. Toxins such as Polycyclic Aromatic Hydrocarbons (PAHs), Polychlorinated Biphenyls (PCBs) and Polybrominated Diphenyl Ethers (PBDEs) and metals such as lead, copper and cadmium can accumulate in plastics⁴⁵⁶⁷.

Tackling marine litter requires governments, industry and communities to reduce the amount of litter entering the marine environment from land and sea-based sources and to also remove litter that is already there. The Scottish Government published its Marine Litter Strategy⁸ in 2014 which aims to develop current and future measures to ensure that the amount of litter entering the marine and coastal environment is minimised to bring ecological, economic and social benefits. In addition to over 40 action points in this Strategy, the Scottish Government has prioritised action on plastics with four commitments in its Programme for Government⁹;

¹ <http://www.ospar.org/documents?v=34422>

² <https://oap.ospar.org/en/ospar-assessments/intermediate-assessment-2017/pressures-human-activities/marine-litter/composition-and-spatial-distribution-litter-seafloor/>

³ <https://mcsuk.org/clean-seas/great-british-beach-clean-2017-report>

⁴ Mato, Y., Isobe, T., Takada, H., Ohtake, C. and Kaminuma, T. (2001) plastic resin pellets as a transport medium for toxic chemicals in the marine environment. *Environmental Science and Technology*, 35(20), 318-324

⁵ Andrady, A.L., 2011. Microplastics in the marine environment. *Marine Pollution Bulletin*, 62, 1596-1605

⁶ Rochman, C.M, Hoh, E., Hentschel, B.T., Kaye, S. (2013) Long-term field measurement of sorption of organic contaminants to five types of plastic pellets: implications for plastic marine debris. *Environmental Science & Technology*, 130109073312009. Doi:10.1021/es303700s

⁷ Rochman, C.M, Hentschel, B.T., Teh, S.J., (2014), Long-term sorption of metals is similar among plastic types: implications for plastic debris in aquatic environments. *PLoS ONE* 9(1); e85433

⁸ <http://www.gov.scot/Publications/2014/09/4891>

⁹ <http://www.gov.scot/Publications/2017/09/8468>

- Introducing a Deposit Return Scheme for drinks containers
- Establishing an expert panel to consider actions to reduce the demand for single-use items
- Hosting an international conference to discuss improving our marine environment and protecting our wildlife, focusing on marine plastics
- Committing £500,000 to begin to address litter sinks around the coast and to develop policy to address marine plastics, which will involve working with community groups.

We want to deliver on the commitment to develop policy to address marine plastics with new legislation to take action on one of Scotland's most common pieces of beach litter, plastic-stemmed cotton buds. The Cabinet Secretary for Environment, Climate Change and Land Reform announced the intention to introduce a ban on the manufacture and sale of plastic-stemmed cotton buds on 11 January 2018. Introducing legislation will help protect our marine environment and ensure a level playing field for the manufacturing and retail industry and also build consumer confidence.

Issue to be addressed

Plastic cotton buds are contributing to the global marine plastic problem, damaging the marine environment, increasing risk to public health from contact on beaches and bathing waters and risking health further when fragments of plastic enter the food chain. They are in our seas because people are continuing to flush them down toilets and sewage treatment works cannot prevent all of them reaching the sea. When entering sewage systems the plastic stems do not settle with organics, their buoyancy allows them to flow through plant equipment and their narrow diameter means they are not caught by all screens.

Plastic cotton bud stems are consistently observed to constitute approximately 5-10% of marine debris surveyed in European seas¹⁰. The Marine Conservation Society has been monitoring the levels of cotton buds found on beaches in the UK since 2004. They continue to feature in the top ten most common marine litter items in beach clean surveys with an average of 27 for every 100m of beach surveyed in 2017¹¹.

¹⁰ Arcadis (2014) – [Marine Litter study to support the establishment of an initial quantitative headline reduction target](#). Report to European Commission DG Environment SFRA0025: Surfrider Europe (2015) [Bilan Environnemental des Initiatives Océanes 2015 Summary report](#)

¹¹ Marine Conservation Society (2017) [Great British Beach Clean Report](#) published 30 November 2017

Previous actions to tackle the issue

Multiple campaigns have targeted consumer behaviour to encourage people to stop using their toilets as rubbish bins for many litter items, including cotton buds. These campaigns include Scottish Water's "Bag it and Bin it"¹² and "Keep the water cycle running smoothly"¹³ and the Marine Conservation Society's "The Unflushables"¹⁴ which highlights the problem of sewer abuse. Product labelling to encourage responsible disposal has also been used by many brands. Historic campaigns have not resulted in any long-term measurable reduction in the number of cotton buds being flushed down toilets and washing up on beaches.

Fidra, a Scottish environmental charity, has worked with manufacturers and retailers to encourage a change from plastic-stemmed cotton buds to biodegradable alternatives. They have focused on changing the material from which cotton buds are made making them less likely to escape through waste water systems and reduce the unnecessary use of plastic material. Substitute stems are made from fully natural materials such as paper which is preferably Forest Stewardship Council accredited. Their "Cotton Bud Project"¹⁵ has had great success with many retailers including the largest supermarkets and the major manufacturer Johnson & Johnson Ltd committing and changing to the non-plastic option. While the action of these retailers and suppliers is to be applauded, plastic-stemmed cotton buds are still currently available to buy in Scotland.

Rationale for the proposal

The Scottish Government proposes to introduce legislation which bans the manufacture and sale of plastic-stemmed cotton buds based on the evidence summarised in this paper, namely

- Plastics in our seas harm our marine environment.
- Plastic-stemmed cotton buds are contributing to this problem and are one of the most commonly found items of plastic litter washed up on our shores.
- Campaigns to promote behaviour change have failed to stop the irresponsible disposal of these items down toilets.
- The 'Cotton bud project' has demonstrated that manufacturers and retailers are able to trade in viable biodegradable alternative products and there is therefore no known reason as to why other companies would be unable to follow this best practice.

¹²<http://www.scottishwater.co.uk/you-and-your-home/your-home/flooding-information/flooding-information-documents/bag-it-bin-it-leaflet>

¹³<http://www.scottishwater.co.uk/you-and-your-home/your-home/keep-the-water-cycle-running-smoothly>

¹⁴ <http://www.wetwipesturnnasty.com/>

¹⁵ <https://www.cottonbudproject.org.uk/>

PART 3 – PROPOSAL TO INTRODUCE A BAN ON THE MANUFACTURE AND SALE OF PLASTIC-STEMMED COTTON BUDS

Legal powers available

Environmental protection is a devolved issue, and following consideration, the Cabinet Secretary for Environment, Climate Change and Land Reform announced on 11 January 2018 the proposal to introduce secondary legislation to ban the manufacture and sale of plastic-stemmed cotton buds.

Scottish Ministers can introduce secondary legislation under section 140 of the Environmental Protection Act 1990 for conservation purposes, applying the powers to prohibit or restrict the importation, use, supply or storage of injurious substances or articles.

Previous use of these powers for marine protection

Section 140 of the Environmental Protection Act 1990 has been used to draft the Environmental Protection (Microbeads) (Scotland) Regulations 2018 which will ban the manufacture and sale of rinse-off personal care products containing plastic microbeads with the purpose of offering our seas further protection from plastic pollution.

Impacts of proposed ban

It is expected that there will be minimal impacts resulting from the proposed bans. This consultation asks a question in relation to this issue to help prepare the necessary Business and Regulatory Impact Assessment which will be needed to inform the parliamentary process. An Equalities Impact Assessment will also be considered.

PART 4 – CONSULTATION QUESTIONS

Respondents should take into consideration the information provided in this document alongside any other knowledge or personal experiences that could be relevant. All opinions are welcome.

We ask that those involved in the manufacturing or retail industry answer the question about the business impact of this proposal in order to inform the completion of any necessary Business Regulatory Impact Assessment.

In order for us to deal with your response appropriately please ensure you complete a Respondent Information Form. This will ensure that if you ask for your response not to be published that we regard it as confidential and will treat it accordingly.

Sector and Origin

It would be helpful for our analysis if you could indicate which of the sectors you most align yourself/your organisation with for the purpose of this consultation (*please tick ONE which is MOST APPLICABLE to you*):

Public Body	<input type="checkbox"/>
Non-Governmental Organisation	<input type="checkbox"/>
Retail Industry	<input type="checkbox"/>
Manufacturing Industry	<input type="checkbox"/>
Member of the General Public	<input type="checkbox"/>
Other (please specify)	<input type="text"/>

Question 1: Do you support the proposal to introduce a ban on the manufacture and sale of plastic-stemmed cotton buds in Scotland?

Yes No

Please give reasons

Question 2: If you are responding as a business, can you provide supporting evidence of any expected additional costs from this proposed ban?

Question 3: Are you content for the Scottish Government to contact you for further clarification of the financial effects that you have estimated?

Yes No



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