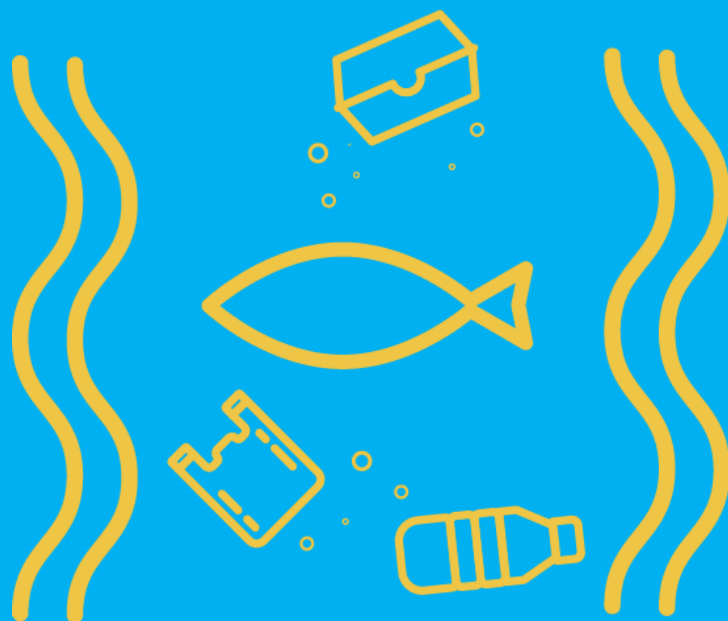


October 2022



Climate Change (Single-Use Plastics) Regulations 2022

Guidance document

1. Introduction

This document aims to provide guidance to businesses, charities and NGO's on the Climate Change (Single Use Plastic) Regulations.

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 ensure that all other organisations (bar necessary exemptions) follow suit.

2. What items are being banned under the regulations?

The Regulations deliver the policy commitment in '[The Single Use Plastic Reduction Plan for the Isle of Man Community](#)' – GD No: 2019/0040 specifically to prohibit the sale, distribution and supply 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

- A ban on products made from oxo-degradable* plastics
- A ban on the manufacture, sale and distribution of rinse-off personal care products that contain plastic micro beads'

With necessary exemption which are outlined in section 4 of this document.

*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>



3. Why are we bringing in these regulations?

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

The items prohibited under these regulations were some of the most commonly found items on beaches across Europe and as such, these regulations are an important first step to addressing the issue.

The Isle of Man community is also strongly supportive of these regulations, as shown in the Climate Change (Single Use Plastic) Regulations Consultation Report.

4. What items are exempt from the regulations?

Compostable plastics

At this time compostable plastic items are not including in the regulations, however to be deemed a 'compostable plastic' the material must be *certified to the standard of BS EN 13432*.

As such not all products labelled 'biodegradable' or 'compostable' will be exempt from the Regulations and businesses are asked to discuss a product's suitability with their supplier.

The biodegradation process depends on various factors and can vary depending on material type, which is why products must be certified to standard BS EN 13432 to ensure materials will biodegrade effectively.

The prohibition of compostable plastics will be reviewed at a later date and may be included in future regulations to match legislation in surrounding jurisdictions, but at this time is exempt and can be used as a transitional material.

Schedule 2 - exemptions

Part 1 - Single-use carrier bags exemptions

The following single use plastic carrier bags are exempt from the Regulations.

Unwrapped food bag

"A bag intended to be used solely to contain wholly or partly unwrapped food for human or animal consumption."

Unwrapped loose seeds bag

"A bag intended to be used solely to contain wholly or partly unwrapped loose seeds, bulbs, corms, rhizomes, flowers or goods contaminated by soil."

Prescription-only medicine bag

"A bag intended solely to contain drugs or appliances supplied by a pharmacist in accordance with a prescription."

Uncooked meat food bag

"A bag intended to be used solely to contain uncooked fish or fish products, meat or meat products or poultry or poultry products."



Live aquatic creatures bag

"A bag intended to be used solely to contain live aquatic creatures in water."

Returnable multiple reuse bag

"A bag which is sold to the end user and which —

(a) is intended to be returnable to the seller from whom it was purchased to be replaced free of charge;

(b) is made from material the thickness of which is not less than 50 microns but not greater than 70 microns; and

(c) disregarding the width of any gussets, or the height of any handles extending above the main body of the bag —

(i) has a width and height greater (in each case) than 404 mm; and

(ii) has a width or height greater (in either case) than 439 mm. "

Woven plastic bag

"A bag the material of which is made by interlacing long threads passing in one direction with others at a right angle to them."

Transit goods bag

"A bag which is intended to be used to carry goods in a transit place."

Note: A transit place means a security restricted area in a port or airport.

In addition, the following are NOT prohibited under the single use carrier bag restriction:

- Rolls of bin bags, dog poo bags, sandwich bags etc. Only bags provided at the point of sale for immediate use are being banned (other than those exempt).

Part 2 - Single-use plastic straws

The supply of these items is not prohibited by the Regulations:

- Single use plastic straws that are medical devices or are used for medical purposes.
- Single use plastic straws that are packaging or come as part of the packaging of a drink.

Catering establishments may supply single use plastic straws on request but must not display or advertise them – note this is to ensure those who have access or disability needs have access to these items.

Retail pharmacy businesses may supply single use plastic straws on request but must not display or advertise them - note this is to ensure those who have access or disability needs have access to these items.

Single use plastic straws are allowed to be used for medical or accessibility need in adult care homes or adult day care centres, child related care services, a prison or other place of detention or a school.



Part 3 - Single-use plastic stemmed cotton buds

The following single-use plastic stemmed cotton buds are exempt from the regulations:

- The supply of single use plastic stemmed cotton buds for forensic and scientific purposes.
- The supply of single use plastic stemmed cotton buds that are medical device or are used for medical purposes.

5. I am a wholesaler, how will I be affected?

The Regulations ban the supply of the stated single use plastic items to an 'end user'. Wholesalers are therefore not affected directly by the ban; however, it is expected that wholesale of these items will be significantly reduced as the items will only be able to be sold to end users permitted under the Regulations i.e. those exempt from the Regulation (see section 4 for more information).

6. How do the Regulations ensure those with disability, medical or accessibility needs have access to the single use plastics items they require?

As some people with disabilities require such items for medical and accessibility reasons, the Regulations include exemptions that provide for this need, they are as follows:

- 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.



7. Is it illegal for individuals to own the single use plastic items in the Regulations?

No, Regulation 4 (1) makes it an offence to sell or supply the single-use plastic items listed in Schedule 1, subject to certain exceptions (see Regulation 4 for further information). That means 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, however they will be unable to sell or supply those items to anyone else.

8. How will the Regulations be enforced?

Powers of authorised officers

The Regulations 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.

It is important to note that the Regulations do not prohibit possession of any item as the powers of enforcement apply only to the sale and distribution of such items, and therefore do not apply to individuals who own single use plastic items. 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.

Enforcement and Civil Sanctions

The Regulations 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 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 ensure that any penalty which is served would be proportional to the offence.

Representations and objections

The Regulations (Paragraph 2 of Schedule 3) enable 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.

Enforcement undertakings

The Regulations (Paragraph 6 of Schedule 3) enable 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.

9. What is the enforcement procedure?

See Appendix 1 for an enforcement procedure flow chart and Appendix 2 for a glossary of terms.

10. How long do I have to use up stock and find alternatives?

Regulation 9 provides 12 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.

11. What are the best alternatives?

Businesses should beware of 'greenwashing' terms when choosing sustainable alternatives, for example: the term 'degradable' means that something will 'break-down', all materials eventually degrade, but for plastics that can take thousands of years; we need compostable plastics to 'bio-degrade' which is to decompose into natural elements like carbon dioxide and water vapour, with the help of organisms like bacteria and fungi, rather than just degrade into smaller pieces, or 'micro-plastics' which can cause more harm and pollution.



Understand the terms

Degradable:

All materials are degradable, which just means that they breakdown. Degradable plastic products do not break down completely and turn into organic material. Instead, they break apart into microscopic pieces which can still affect the environment. For example, some plastic can degrade and turn into small pieces, which animals ingest, causing major issues in the food chain. It typically takes much longer for products to degrade than it does to take biodegradable or compostable items to break down. Often a product is labelled 'degradable' to make it seem like it's an environmentally friendly option, but these products can in fact damage wildlife and pollute our environment.



Compostable:

Compostable means that a product will break down into natural elements, but only in a compost setting. Compostable materials are typically made from plants and other organic materials, such as corn starch or PLA plastic. There are different types of composting processes, and most compostable products must be composted in an industrial composting facility rather than a home composting system, but check specific products as some can be suitable for home composting. Compostable products have two added benefits over biodegradable options: they break down much faster, many in roughly 90 days, and they also break down into nutrient-rich products, which generate healthy soil for the planet. For a compostable plastic product to be exempt from the regulations it must be *certified to the standard of BS EN 13432*, please check with your supplier if unsure.

Bio-degradable:

Biodegradable refers to a product breaking down into natural elements, carbon dioxide, and water vapor by organisms like bacteria and fungi. Technically, just about everything is biodegradable, although it will take hundreds of thousands of years for most things to biodegrade.

For a product to earn a biodegradable certification, products and materials must quickly decompose into natural materials. Third party certifiers typically restrict acceptable breakdown times between six and nine months – note that not all products that



are labelled 'bio-degradable' adhere to this standard and you should check with your supplier that they meet the required standards – specifically in relation to alternative 'compostable' or 'bio-degradable' plastics, which must *certified to the standard of BS EN 13432*.

Alternatives to single use plastic items

In terms of choosing alternatives to the single use plastic items that have been prohibited there are lots of alternatives, and different types will suit different needs.

Swapping to reusables

In general, swapping single use plastic items for washable reusable items is the best option environmentally when used long term (figure 1). When used multiple times, reusables have a lower carbon footprint than single use items and generally don't end up littering the environment, because they aren't designed to be thrown away after one use. They also don't waste valuable resources in the production of them, because they are designed to be used again and again. Swapping to reusables won't suit everyone's business model, but there are ways you can help to promote the use of reusables, for example providing incentives for customers to bring their own (discount, loyalty points etc.) or charging those who require a single use item e.g. wooden cutlery.

Other single use disposable items - Compostable plastics, paper and wood etc.

If choosing an alternative single use product is the most viable alternative, make sure those items either comply with the Regulations, or meet international standards in terms of environmentally responsible production. For 'compostable' or 'bio-degradable' plastic alternatives, the products must be *certified to the standard of BS EN 13432*. Check with your supplier if you are unsure. For wooden and paper alternatives, look out for the 'Forest Stewardship Council' certification (below), which is an international non-profit, multi-stakeholder organization that promotes responsible management of the world's forests. If a product is certified as FSC the wood has been harvested from forests that are responsibly managed, socially beneficial, environmentally conscious, and economically viable.



The mark of
responsible forestry



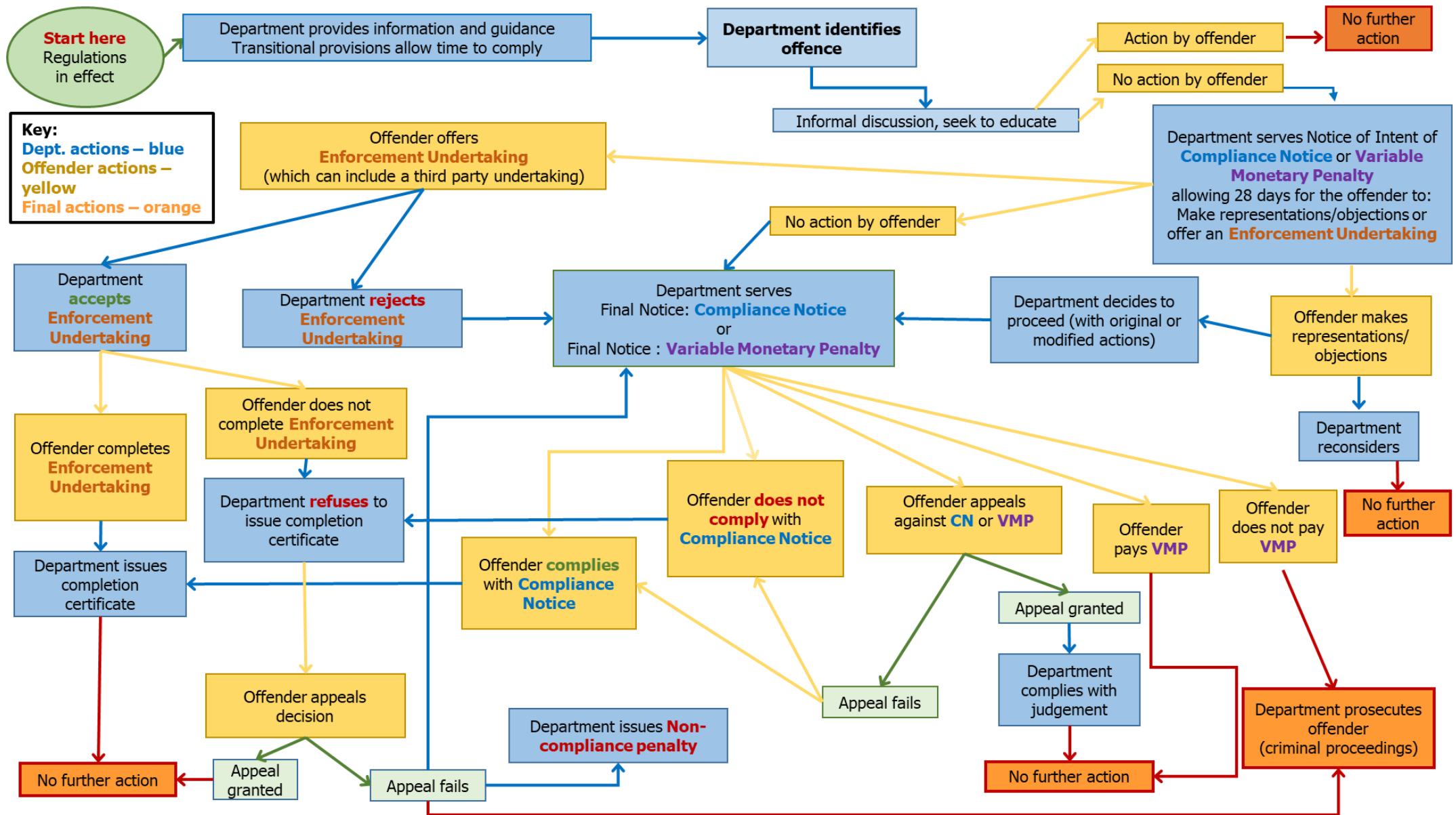
Single Use or Reusables

Single Use Plastic 	Other Single Use: Paper, wood, metal, glass 	Reusable 
 <p>Used for minutes, last for centuries</p>  <p>Water, carbon and land resources are needed to produce plastic items</p>  <p>Plastic is the most common material found polluting rivers and oceans</p> <p>#GOODBYESINGLEUSE</p>	 <p>If not recycled, it wastes re-useable resources</p>  <p>Water, carbon and land resources are needed to produce single use items</p>  <p>Ends up as litter—on land and at sea</p>	 <p>Using reusable items multiple times has a lower carbon impact than single—use items</p>  <p>Saves money in the long run</p>  <p>No litter</p> <p>#HELLOREUSABLE</p>

Figure 1 Comparison between single use plastics and alternative products – adapted from Zero Waste Scotland



Appendix 1: Enforcement flow chart



Appendix 2: Glossary of terms

Term	Meaning
Notice of Intent	A notice sent by the Department to an offender stating that the Department intends to serve a compliance notice (CN) or a variable monetary penalty (VMP) on the offender.
Compliance Notice (CN)	A list of actions the Department requires the offender to undertake.
Variable Monetary Penalty (VMP)	A fine – the amount of which is proportionate to the offence.
Enforcement Undertaking (EU)	<p>A list of actions offered by the offender to make good their offence</p> <p>E.g. Measures to ensure it doesn't happen again, donations to relevant non-profits, third party undertakings.</p> <p>Lots of useful info on enforcement undertakings can be found:</p> <p>https://www.gov.uk/government/publications/environment-agencys-use-of-civil-sanctions/enforcement-undertakings-accepted-by-the-environment-agency-1-june-to-30-september-2020#our-approach-to-enforcement-undertakings-eus</p> <p>and</p> <p>https://www.gov.uk/government/publications/environment-agencys-use-of-civil-sanctions/enforcement-undertakings-accepted-by-the-environment-agency-1-june-to-30-september-2020</p>
Representations/Objections	<p>The offender within 28 days of receiving a Notice of Intent may write to the Department and object or provide other information which might be relevant to the offence. The Department may, on the basis of that information:</p> <ul style="list-style-type: none">• decide not to serve the CN or VMP;• decide to serve a modified CN or VMP; or• decide to take other action permitted under the Regulations;• decide to proceed with the CN or VMP as set out in the Notice of Intent.
Final Notice	The 'Final Notice' is the CN or the VMP which was set out in the Notice of Intent. It is sent after 28 days if no other action is taken by the offender.
Third Party Undertaking (TPU)	Offender offers to compensate a party who has suffered a loss because of the offence e.g. Another business which purchased prohibited goods unknowingly.
Non-compliance penalty	A fine imposed by the Department if an offender does not comply with a CN, TPU or complete an agreed EU.
Transitional provisions	Provision which allow a phasing in of the restrictions e.g. allowing businesses to use up existing stock.