

R. (FABRICO POLYMERS LTD)

Claimant

v

**SECRETARY OF STATE FOR ENVIRONMENT,
FOOD AND RURAL AFFAIRS**

Defendant

SUMMARY

Background

On 22nd May 2025, the Secretary of State for Environment, Food and Rural Affairs issued a written ministerial statement ('WMS') announcing the Government's commitment to banning fish-shaped plastic soy sauce dispensers. It states:

"This Government understands the importance of phasing out single use plastics. The increasingly high levels of microplastic pollution in our rivers and oceans requires immediate and targeted action. This statement is a formal announcement of the Government's commitment to amend the regulatory regime on single use plastics to introduce a ban on fish-shaped plastic soy sauce dispensers.

Fish-shaped plastic soy sauce dispensers are ubiquitous accompaniments to Japanese cuisine, in particular sushi. However, these dispensers are made from polyethylene, which makes them non-biodegradable. They are easily dropped or blown away and eventually enter waterways where they remain for hundreds of years. The accumulation of polyethylene products in aquatic environments is harmful to marine life and disruptive to ecosystems.

Therefore, pre-filled sauce containers with a lid, cap or stopper containing less than 30ml of soy sauce will be banned in restaurants and take-away establishments with immediate effect from 1st October 2025."

On 16th May 2025, officials sent a draft of the WMS to the Secretary of State. Accompanying the draft was a brief assessment of the proposal against the Environmental Principles and Policy Statement ('EPPS assessment')¹ in accordance with the obligation in section 19 of the Environment Act 2021. In the assessment, officials highlighted the positive environmental effects of the proposal and the

¹ Environmental Principles and Policy Statement 2023

<https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement>.

recommendation to the Minister was therefore to publish the proposal as intended. The Secretary of State reviewed this assessment before publishing the policy on 22nd May.

Fabrico Polymers Ltd, trading as SoyFishCo, is the UK's leading producer of fish-shaped soy sauce dispensers. They were worried about the policy-making process leading to the 2025 WMS. In particular, they were concerned that the 30ml limit was an arbitrary figure that would entail disproportionate costs and result in them having to overhaul their production processes entirely. They were further sceptical about the extent of the positive environmental effects of the ban.

The company sent a letter before claim in accordance with the Pre-action Protocol for Judicial Review alleging that the proportionality analysis in the EPPS assessment was inadequate. The Secretary of State conceded that a more rigorous assessment was required. On 16th June 2025, a fresh EPPS assessment was submitted by officials to the Secretary of State, who was asked to decide whether, in light of the assessment, the 2025 WMS should remain as published. The relevant elements of the statement are as follows:

- ***“Environmental effects:*** *There are multiple positive environmental effects of this proposal. It will result in an immediate decrease in single-use plastics in the hospitality industry. Banning soy sauce dispensers will encourage restaurants to provide more sustainable forms of supplying soy sauce to customers, such as using large communal dispensers or encouraging customers to bring their own containers. There is an abundance of evidence to show that smaller pieces of plastic are more likely to release microplastics into the environment. They are easily mistaken for food by marine life when they enter aquatic environments. Producing single use plastic is also resource intensive, relying on fossil fuel extraction.*

Precise scientific data on the effect of this ban on overall volumes of single use plastics is difficult to quantify at this stage. However, the Minister can rely on robust evidence that other bans on single use plastics in restaurants and take-away establishments (cutlery, plates, takeaway containers) have resulted in a marked reduction in the production and use of these items. It is likely that there will be negative environmental effects associated with manufacturers adjusting their production processes, but these effects are offset by the net reduction in plastic pollution over time.

- ***Integration principle:*** *the proposal concerns single use plastics and thus inevitably intersects with both current and future environmental law and policy. The proposal has been shared with the Environment Agency, who raised questions about how this proposal intersects with Producer Responsibility Obligations (Packaging and Waste) Regulations 2024 and the Environmental Improvement Plan 2023. At this stage of the proposal, it is not necessary to assess the relationship between the Regulations, the Plan and the proposal, as the effects of the proposal will be assessed on an ongoing basis following its implementation.”*

On 17th June 2025, the Secretary of State decided that, after considering the assessment, the 2025 WMS should remain as published.

Statutory Framework

Environment Act

Sections 17 to 19 of the Environment Act 2021 (“EA 2021”) are concerned with the Policy Statement on Environment Principles (commonly referred to as “the EPPS”).² Section 17 provides:

“17 Policy statement on environmental principles

- (1) The Secretary of State must prepare a policy statement on environmental principles in accordance with this section and section 18.
- (2) A “policy statement on environmental principles” is a statement explaining how the environmental principles should be interpreted and proportionately applied by Ministers of the Crown when making policy.
- (3) It may also explain how Ministers of the Crown, when interpreting and applying the environmental principles, should take into account other considerations relevant to their policy.
- (4) The Secretary of State must be satisfied that the statement will, when it comes into effect, contribute to—
 - (a) the improvement of environmental protection, and
 - (b) sustainable development.
- (5) In this Part “environmental principles” means the following principles—
 - (a) the principle that environmental protection should be integrated into the making of policies,
 - (b) the principle of preventative action to avert environmental damage,
 - (c) the precautionary principle, so far as relating to the environment,
 - (d) the principle that environmental damage should as a priority be rectified at source, and
 - (e) the polluter pays principle.”

Section 19 provides, so far as is relevant:

“19 Policy statement on environmental principles: effect

- (1) A Minister of the Crown must, when making policy, have due regard to the policy statement on environmental principles currently in effect.
- (2) Nothing in subsection (1) requires a Minister to do anything (or refrain from doing anything) if doing it (or refraining from doing it)—

² Ibid.

- (a) would have no significant environmental benefit, or
- (b) would be in any other way disproportionate to the environmental benefit.”

Section 47 provides for definitions, including the following:

“*“making”* policy includes developing, adopting or revising policy;

...

“policy” includes proposals for legislation, but does not include an administrative decision taken in relation to a particular person or case (for example, a decision on an application for planning permission, funding or a licence, or a decision about regulatory enforcement)”.

Legal Challenge

On 30th July 2025 SoyFishCo filed a claim for judicial review against the 2025 WMS. They seek an order quashing the 2025 WMS and requiring a fresh assessment of the Government’s proposal to ban soy sauce bottles. Their claim is on two grounds:

1. **Ground 1** – the Secretary of State failed to fulfil his s.19 duty to ‘have due regard’ to the EPPS in the promulgation of the 2025 WMS in at least two respects:
 - (a) **Integration principle:** The Secretary of State has misapplied the integration principle in the EPPS. The section 19 duty can only be discharged if consideration is given to the Environmental Improvement Plan,³ The Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024,⁴ and legally-binding environmental targets.⁵ The rigorous evaluation of the interaction between the policy in question and core environmental law is essential.
 - (b) **Inchoate policies:** the EPPS is unjustifiably reliant on future environmental effects in its analysis of the positive and negative effects of the 2025 WMS.
2. **Ground 2** – the retroactive EPPS assessment was a ‘rearguard action’ as articulated in *R (Bracking) v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345, a case involving the public sector equality duty in s.149 of the Equality Act 2010.

In responding to the claim, the Secretary of State indicated that he would contest the claim relying on *R (Rights: Community: Action Limited) v SoS for Housing, Communities and Local Government* [2025] EWCA Civ 990 to argue that the duty under section 19 of the Environment Act was discharged.

By a decision dated 20th August 2025, Mrs Justice Longford granted permission for SoyFishCo to apply for judicial review on the papers. The Judge directed that to both parties should arguments addressing the test for relief as set out in section 31 (2A) and/or (3C) of the Senior Courts Act 1981 (‘SCA 1981’) in addition to the pleaded grounds in their skeleton arguments.

³ Environmental Improvement Plan 2023

<https://www.gov.uk/government/publications/environmental-improvement-plan>.

⁴ <https://www.legislation.gov.uk/uksi/2024/1332/contents/made>

⁵ The Environmental Targets (Biodiversity) (England) Regulations 2023; The Environmental Targets (Water) (England) Regulations 2023.