



BILL EXPLANATORY INFORMATION

The Single-use and Other Plastic Products (Waste Avoidance) Bill 2019 has been prepared to implement the government's July 2019 announcement to address the impacts of single-use plastic products. As per the government's announcement, it prohibits the sale, supply and distribution of certain single-use plastic products and establishes a framework for adding other products in the future.

The draft Bill has been informed by feedback on the *Turning the tide on single-use plastic products* discussion paper (<http://www.greenindustries.sa.gov.au/priorities/plastics>) and discussions at the Single-Use Plastic Stakeholder Taskforce.

It has been released for public consultation. Comments and submissions are due by Friday, 7 February 2020 and following consideration of feedback, the Bill will be finalised for introduction to Parliament.

Importantly, the Bill contains a provision for an exemption that will allow for the sale, supply and distribution of single-use plastic straws to those in the community who rely on them due to disability or medical need. The details of this exemption will be informed by the consultation process and implemented via regulations under the legislation.

Topics

Summary

Consistent with contemporary international and domestic definitions, plastic products may be considered problematic and unnecessary when they:

- are not readily reusable, recyclable or compostable; or
- hinder or disrupt the recyclability or compostability of other products; or
- have a high likelihood of being littered or ending up in the natural environment; and
- can be avoided (or replaced by a reusable / recyclable / compostable alternative) while maintaining utility.

The overarching purpose of the legislation is to restrict the sale and supply of certain plastic products that are designed to be used once and discarded. Where use of the product is required, the legislation will influence substitution with alternative products that minimise the potential to compromise the health of ecosystems, specifically marine ecosystems, and that are either reusable, recyclable or compostable.

Banned products

As per the government's 6 July 2019 announcement, the following plastic products are prohibited from sale and supply under the legislation:

- Single-use plastic drinking straw
- Single-use plastic cutlery
- Single-use plastic beverage stirrer
- Single-use expanded polystyrene cup
- Single-use expanded polystyrene bowl

- Single-use expanded polystyrene plate
- Single-use expanded polystyrene clam-shell container
- All products made of oxo-degradable plastic

Other products will be able to be added to this list via regulations.

Non-plastic products

The legislation is focused on plastic items, whether plant extracts or of fossil fuel origin, and therefore is silent on non-plastic single-use items (e.g. paper and cardboard drinking straws).

Alternative products

Ahead of implementation of the legislation, the government will make available information to assist businesses in transitioning to alternative products.

This will be supported by a communications campaign that will inform the community of what single-use plastic products are to be prohibited, and when.

Addition of other products

The draft Bill outlines a consultation process that must be undertaken before adding other products to the list of prohibited products.

This includes publishing a notice that outlines the proposed product, the reasons for its inclusion in the legislation, the availability of alternative products and potential exemptions that may be required.

The notice will be made public and submissions will be invited for a period of at least 8 weeks.

Submissions made during this consultation process must be considered prior to the product being added to the list of prohibited products.

The government has announced previously that takeaway coffee cups, thicker plastic bags and other takeaway food service items would be considered for inclusion in the legislation at a later date.

Commencement

The Bill states the legislation will come into operation on a day to be fixed by proclamation. This can be any day, as determined by the government.

Subject to the passage of the Bill through Parliament. The Minister will recommend to the Governor the day for the legislation to commence.

Consultation on the draft Bill will help inform this date.

The government has previously communicated that from the date the legislation commences, single-use plastic straws, cutlery and beverage stirrers will be prohibited from sale, supply and distribution.

The single-use expanded polystyrene food service products listed in the Bill, as well as all oxo-degradable plastic products, will be prohibited 12 months following the commencement of the legislation.

Offences

In accordance with the commencement of the legislation (see above), it will be an offence to sell, supply or distribute prohibited products. In relation to oxo-degradable plastic, it will also be an offence to manufacture or produce these products.

The legislation contains penalties and expiation fees for these offences.

Penalties and expiation fees also apply for the sale or supply of prohibited products and representing to someone that the products are not prohibited.

Enforcement of the legislation will be undertaken by Authorised Officers under the *Environment Protection Act 1993*.

Summary of offences in the Bill				
Offence	Clause	Person / Business	Maximum Penalty	Expiation Fee
<i>Prohibited plastic products (listed in Part 2)</i>				
Sells, supplies or distributes a prohibited plastic product	6	Any person, in the course of carrying on a business	\$5,000	\$315
Sells, supplies or distributes a prohibited plastic product	6	Prescribed person (manufacturers, producers, wholesalers and distributors)	\$20,000	\$1,000
Sells, supplies or distributes a prohibited plastic product and prior to, or in the course of selling/supplying/distributing, represents it as not a prohibited product	7	Anyone	\$20,000	\$1,000
<i>Oxo-degradable plastic products (Part 3)</i>				
Manufactures or produces a product comprised of oxo-degradable plastic	9	Any person, in the course of carrying on a business	\$20,000	\$1,000
Sells, supplies or distributes an oxo-degradable plastic product	10	Any person, in the course of carrying on a business	\$5,000	\$315
Sells, supplies or distributes an oxo-degradable plastic product	10	Prescribed person (manufacturers, producers, wholesalers and distributors)	\$20,000	\$1,000
Failing to provide the EPA, when requested to in writing, with a certification as to whether or not a product contains oxo-degradable plastic	11	Manufacturers, producers, wholesalers and distributors	\$20,000	N/A
Sells, supplies or distributes an oxo-degradable plastic product and prior to, or in the course of selling/supplying/distributing, knowing or ought to have reasonably known, that it is	12	Anyone	\$30,000	N/A

comprised, in whole or in part, of oxo-degradable plastic				
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For the purposes of clauses 6 and 10, ‘business’ includes an enterprise, association, organisation, or other body regardless of whether they are of a commercial, charitable, sporting, educational or community nature.

Exemptions

Single-use plastic straws

In announcing the development of legislation to prohibit certain single-use plastic products, the government advised that it would be considering the needs of people who require single-use plastic straws.

This has been a key focus of the Single-Use Plastic Stakeholder Taskforce, which comprises representatives who live with a disability and/or represent their interests.

The draft Bill contains exemption making powers for this purpose.

During consultation, feedback is sought to help inform an exemption to ensure people who rely on plastic drinking straws can still access them. This could be undertaken through several avenues, such as:

- Allowing plastic straws to be sold / supplied on request
- Allowing the sale / supply of plastic straws from particular outlets – e.g. medical facilities, pharmacies, council offices (potentially in accordance with councils’ Disability Access and Inclusion Plans)
- Continuing to allow online purchases of plastic straws
- Ensuring businesses allow people to bring their own straws

Subject to consultation feedback, the details of the exemption will be developed ahead of implementation of the legislation.

Attached items

Products that are attached to another product at the point of manufacture and packaging (e.g. straws attached to fruit-boxes and plastic spoons packaged with yoghurt) are not proposed to be prohibited at this time.

Similar to the exemption discussed above for plastic straws, an exemption will be developed to ensure attached items are not prohibited.

Manufacture and production of prohibited plastic products

The legislation is not intended to prohibit the manufacture and production of prohibited plastic products listed in Part 2 for export to other jurisdictions or countries that allow for those products to be sold or supplied.

The legislation includes a provision to allow this activity to continue.

Recycled plastic products

The legislation is not intended to prohibit recycled plastic products that may contain trivial or insignificant amounts of oxo-degradable plastic due to oxo-degradable plastics being part of, or contamination within, the feedstock for those recycled products.

The legislation contains a provision to ensure these products are not prohibited.

Other

Other potential exemptions to be developed under the legislation include:

- Compostable bags used in household food waste recycling systems – If these, and products made of the same material, fit within the definition of oxo-degradable plastic and are inadvertently prohibited by the legislation, an exemption will be developed
- Export packaging – If another country has mandated packaging requirements that are inconsistent with this legislation, an exemption will be considered

Feedback is sought during consultation to help inform whether exemptions are needed in these scenarios, and if so, the details of the exemption required.