

2020

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport and City Services)

Plastic Reduction Bill 2020

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(As presented)

(Minister for Transport and City Services)

Plastic Reduction Bill 2020

A Bill for

An Act to reduce the use of plastic, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Plastic Reduction Act 2020*.

4 **2 Commencement**

5 This Act commences on 1 July 2021.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).

8 **3 Dictionary**

9 The dictionary at the end of this Act is part of this Act.

10 *Note 1* The dictionary at the end of this Act defines certain terms used in this
11 Act, and includes references (*signpost definitions*) to other terms defined
12 elsewhere in this Act.

13 For example, the signpost definition '*prohibited plastic product*—see
14 section 7.' means that the term 'prohibited plastic product' is defined in
15 that section.

16 *Note 2* A definition in the dictionary (including a signpost definition) applies to
17 the entire Act unless the definition, or another provision of the Act,
18 provides otherwise or the contrary intention otherwise appears (see
19 [Legislation Act](#), s 155 and s 156 (1)).

20 **4 Notes**

21 A note included in this Act is explanatory and is not part of this Act.

22 *Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

1 **5 Offences against Act—application of Criminal Code etc**

2 Other legislation applies in relation to offences against this Act.

3 *Note 1 Criminal Code*

4 The [Criminal Code](#), ch 2 applies to all offences against this Act (see
5 Code, pt 2.1).

6 The chapter sets out the general principles of criminal responsibility
7 (including burdens of proof and general defences), and defines terms used
8 for offences to which the Code applies (eg *conduct*, *intention*,
9 *recklessness* and *strict liability*).

10 *Note 2 Penalty units*

11 The [Legislation Act](#), s 133 deals with the meaning of offence penalties
12 that are expressed in penalty units.

13 **6 Objects of Act**

14 The objects of this Act are to reduce—

- 15 (a) the use of plastic in the ACT; and
- 16 (b) the impact of plastic on the environment, including the impact
17 of the production and post-consumption persistence of plastic;
18 and
- 19 (c) the impact of plastic on waste management and resource
20 recovery systems.

1 **Part 2** **Important concepts**

2 **7** **Meaning of *prohibited plastic product***

3 (1) In this Act:

4 ***prohibited plastic product***—

5 (a) means any of the following:

6 (i) a single-use expanded polystyrene container for serving
7 food or a beverage;

8 (ii) a single-use plastic beverage stirrer;

9 (iii) single-use plastic cutlery;

10 (iv) a single-use plastic shopping bag;

11 (v) any other single-use plastic product prescribed by
12 regulation;

13 (vi) a non-compostable degradable plastic product prescribed
14 by regulation; but

15 (b) does not include a single-use item mentioned in paragraph (a)
16 (i) to (v) that is an integrated packaging item.

17 (2) In this section:

18 ***barrier bag*** means a bag used to carry unpackaged perishable food,
19 including fruit, vegetables, meat and fish.

1 **compostable**, in relation to a plastic bag, means a plastic bag that is
2 designated—

3 (a) compostable in accordance with Australian Standard
4 AS 4736-2006 (Biodegradable plastics suitable for composting
5 and other microbial treatment) as in force from time to time; or

6 (b) home compostable in accordance with Australian Standard
7 AS 5810-2010 (Biodegradable plastics—Biodegradable plastics
8 suitable for home composting) as in force from time to time.

9 *Note* AS 4736-2006 and AS 5810-2010 may be purchased at
10 www.standards.org.au.

11 **integrated packaging item**—

12 (a) means an item that is an integral part of the packaging in which
13 goods, including pre-packaged portions of food or a beverage,
14 are sealed before the goods are supplied; but

15 (b) does not include an item prescribed by regulation.

16 **Examples—par (a)**

17 1 a sealed expanded polystyrene cup containing dry noodles with flavouring
18 2 a sealed expanded polystyrene tray containing fruit, vegetables or uncooked
19 meat

20 3 shrink-wrapping on a box of cereal

21 4 a fork included in a pre-packed salad

22 5 a spoon attached to an ice-cream cup

23 6 a plate forming part of a frozen meal

24 **single-use plastic shopping bag**—

25 (a) means—

26 (i) a bag that is made (in whole or in part) of polyethylene with
27 a thickness of less than 35 microns; or

28 (ii) a bag prescribed by regulation to be a single-use plastic
29 shopping bag; but

- 1 (b) does not include—
- 2 (i) a barrier bag; or
- 3 (ii) a compostable bag; or
- 4 (iii) a bag prescribed by regulation not to be a single-use plastic
- 5 shopping bag.

6 **8 Meaning of *single-use***

- 7 (1) For this Act, a *single-use* plastic product is a plastic product that is
- 8 designed or intended to be used once only.

9 **Example**

10 A cafe sells coffee in plastic take-away cups under a cup-return scheme. Under the

11 scheme, a customer buys their coffee in a plastic take-away cup and returns the

12 empty cup to the cafe or any other participating cafe to be washed and re-used by

13 other customers of the cafe. The use and return of the plastic take-away cups is

14 tracked using a mobile phone app. The plastic take-away cups are *not* intended to

15 be used once only.

- 16 (2) Subsection (1) applies even if a single-use plastic product may be
- 17 subsequently re-used.

18 **Example—subsequent re-use**

19 A restaurant selling take-away food places the prepared food in plastic take-away

20 food containers and then in a single-use plastic shopping bag along with plastic

21 cutlery for a customer to take away and eat. The customer washes the empty plastic

22 take-away containers and re-uses them to take their lunch to work. The customer

23 also re-uses the single-use plastic shopping bag as a bin liner and the plastic cutlery

24 as planting labels for seedlings. The subsequent re-use of these items is unrelated

25 to the restaurant's original intended use.

1 (3) For subsection (1), *used once* may include multiple purposes within
2 the 1 use.

3 **Example—multiple purposes**

4 Fresh herbs are placed in a plastic sleeve by the grower. The plastic sleeve has the
5 following purposes:

- 6 (a) portioning the herbs for sale;
7 (b) protecting the herbs during transport to the supermarket;
8 (c) extending the shelf-life of the herbs at the supermarket;
9 (d) protecting the herbs during purchase and transport to the home of the
10 ultimate consumer.

11 **9 Meaning of *supply***

12 (1) In this Act:

13 *supply*, a plastic product—

- 14 (a) means provide, by way of sale or otherwise, a plastic product;
15 and
16 (b) includes providing a plastic product to a person—
17 (i) as a container or packaging for another product that is
18 provided to the person; or
19 (ii) for use with, or in relation to, another product that is
20 provided to the person; but

1 (c) does not include providing a plastic product in a domestic
2 setting.

3 **Example—par (b) (i)**

4 giving a customer in a restaurant a plastic take-away container to put uneaten
5 restaurant food into

6 **Example—par (b) (ii)**

7 making plastic beverage stirrers available on the counter at a coffee shop

8 **Examples—par (c)**

9 1 a parent giving a child a plastic fork for the child to eat their home-packed
10 lunch

11 2 taking plastic cutlery to a picnic

12 (2) In this section:

13 ***provide***, a plastic product, includes—

14 (a) offer to provide the product to someone else; or

15 (b) receive or possess the product for the purpose of providing it to
16 someone else; or

17 (c) display the product for the purpose of providing it to someone
18 else; or

19 (d) cause or permit the product to be provided to someone else.

1 **Part 3** **Supplying prohibited plastic**
2 **products**

3 **10 Supply of prohibited plastic products**

- 4 (1) A person commits an offence if the person supplies a prohibited
5 plastic product.

6 Maximum penalty: 50 penalty units.

7 *Note* A person or plastic product may be exempted by the Minister under s 17.

- 8 (2) An offence against this section is a strict liability offence.

9 **11 False representation about prohibited plastic product**

10 A person commits an offence if the person—

11 (a) supplies a prohibited plastic product; and

12 (b) in the course of supplying the product, intentionally or
13 recklessly falsely represents that the product is not a prohibited
14 plastic product.

15 Maximum penalty: 50 penalty units.

16 **12 Notice to dispose of prohibited plastic products**

- 17 (1) This section applies if an authorised person believes on reasonable
18 grounds that a person has contravened section 10.

- 19 (2) The authorised person may, by written notice to the person, require
20 the person to dispose of the prohibited plastic product in a stated way
21 within a reasonable stated period.

22 *Note* If the notice is given to a person who may apply to the ACAT for review
23 of the decision, the notice must be a reviewable decision notice (see s 40).

- 1 (3) For subsection (2), the authorised person may only state a way of
2 disposal that—
- 3 (a) does not unreasonably financially disadvantage the person; and
4 (b) is consistent with the objects of this Act.
- 5 **Example—par (b)**
6 a direction to take the prohibited plastic product to a waste management and
7 resource recovery centre for appropriate disposal
- 8 (4) The notice must contain a statement to the effect that if the prohibited
9 plastic product is not disposed of in accordance with the notice—
- 10 (a) an authorised person may authorise a stated person to remove
11 and dispose of the prohibited plastic product; and
- 12 (b) the reasonable cost of the removal and disposal is a debt due to
13 the Territory by the person who is required to comply with the
14 notice.
- 15 *Note* An amount owing under a law may be recovered as a debt in a court of
16 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).
- 17 (5) A person commits an offence if the person—
- 18 (a) is given a notice under subsection (2); and
19 (b) fails to comply with the notice.
- 20 Maximum penalty: 20 penalty units.
- 21 (6) An offence against this section is a strict liability offence.

- 1 **13** **Authorised person may remove and dispose of prohibited**
2 **plastic products if notice not complied with**
- 3 (1) This section applies if a person fails to comply with a notice under
4 section 12.
- 5 (2) An authorised person may—
- 6 (a) remove and dispose of the prohibited plastic product the subject
7 of the notice; or
- 8 (b) authorise a stated person to remove and dispose of the prohibited
9 plastic product.
- 10 (3) However, the authorised person or a stated person must not remove
11 and dispose of the prohibited plastic product—
- 12 (a) until the end of the period (or any extended period) within which
13 an application may be made to the ACAT for review of the
14 decision to which the notice relates; or
- 15 (b) if an application is made to the ACAT for a review of the
16 decision—unless the decision is upheld or the application is
17 withdrawn.

18 **14** **Liability for cost of disposal of prohibited plastic**
19 **products**

20 A person who fails to comply with a requirement in a notice under
21 section 12 must pay to the Territory the reasonable cost of any
22 removal or disposal carried out under section 13.

23 *Note* An amount owing under a law may be recovered as a debt in a court of
24 competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

1 **Part 4** **Supplying other single-use**
2 **plastic products—declared**
3 **public events**

4 **15 Declaration of public events**

5 (1) The Minister may declare that—

6 (a) a public event is an event to which this part applies (a *declared*
7 *public event*); and

8 (b) a single-use plastic product other than a prohibited plastic
9 product (a *declared single-use plastic product*) must not be
10 supplied at the event.

11 *Note* Part 3 deals with the supply of prohibited plastic products.

12 (2) The Minister may only make a declaration under subsection (1) in
13 relation to a public event that is not a government event if—

14 (a) the declaration is made not less than 3 months before the day the
15 event starts; and

16 (b) the Minister is satisfied that—

17 (i) there is an alternative product to the declared single-use
18 plastic product reasonably available to the organisers of the
19 declared public event; and

20 (ii) the declaration will not have an unreasonable impact on the
21 event.

22 **Examples—unreasonable impact**

23 1 supplies of the declared single-use plastic product have already been
24 purchased by food vendors in advance of the public event

25 2 not having the declared single-use plastic product available for use at
26 the public event would be incompatible with food safety requirements

27 3 the cost of the alternative product will make it unprofitable for food
28 vendors to participate in the public event

1 (3) A declaration is a disallowable instrument.

2 *Note* A disallowable instrument must be notified, and presented to the
3 Legislative Assembly, under the [Legislation Act](#).

4 (4) In this section:

5 *government event* means an event conducted by the Territory.

6 **16 Supply of declared single-use plastic products at**
7 **declared public event prohibited**

8 (1) A person commits an offence if—

9 (a) the person supplies a declared single-use plastic product; and

10 (b) the supply is to a person at a declared public event.

11 Maximum penalty: 50 penalty units.

12 (2) An offence against this section is a strict liability offence.

13 (3) In this section:

14 *declared public event*—see section 15 (1).

15 *declared single-use plastic product*—see section 15 (1).

Part 5 Exemptions

17 Minister may exempt person or plastic product

(1) The Minister may, on application or on the Minister's own initiative, exempt the following from a provision of this Act:

(a) a person;

(b) a plastic product.

Note Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

(2) An application must include the information prescribed by regulation.

(3) The Minister may make an exemption in relation to a provision only if satisfied that—

(a) for subsection (1) (a)—

(i) it is not practicable or in the public interest for the person to comply with the provision; or

(ii) it is not consistent with the person's human rights for the person to comply with the provision; and

(b) noncompliance with the provision will not have any significant adverse effect on public health, property or the environment.

(4) An exemption is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

(5) An exemption may commence on a day earlier than its notification day.

- 1 **18 Exemption conditions**
- 2 (1) The Minister may make an exemption under section 17 on condition.
- 3 (2) A person commits an offence if—
- 4 (a) an exemption applies to the person or a prohibited plastic
- 5 product; and
- 6 (b) the person supplies a prohibited plastic product in contravention
- 7 of a condition of the exemption.
- 8 Maximum penalty: 50 penalty units.
- 9 (3) An offence against this section is a strict liability offence.

1 **20 Appointment of authorised people**

2 The director-general may appoint a public servant as an authorised
3 person for this Act.

4 *Note 1* For the making of appointments (including acting appointments), see the
5 [Legislation Act](#), pt 19.3.

6 *Note 2* In particular, a person may be appointed for a particular provision of a
7 law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by
8 naming a person or nominating the occupant of a position (see [Legislation](#)
9 [Act](#), s 207).

10 **21 Identity cards**

11 (1) The director-general must give an authorised person an identity card
12 stating the person's name and that the person is an authorised person.

13 (2) The identity card must show—

- 14 (a) a recent photograph of the person; and
15 (b) the card's date of issue and expiry; and
16 (c) anything else prescribed by regulation.

17 (3) A person commits an offence if—

- 18 (a) the person stops being an authorised person; and
19 (b) the person does not return the person's identity card to the
20 director-general as soon as practicable, but no later than 7 days
21 after the day the person stops being an authorised person.

22 Maximum penalty: 1 penalty unit.

23 (4) An offence against this section is a strict liability offence.

1 **Division 6.2 Powers of authorised people**

2 **22 Authorised person must show identity card on exercising**
3 **power**

4 (1) If an authorised person exercises a power under this Act that affects
5 an individual, the authorised person must first show the authorised
6 person's identity card to the individual.

7 (2) If an authorised person exercises a power under this Act that affects
8 a person, other than an individual, the authorised person must first
9 show the authorised person's identity card to an individual the
10 authorised person believes on reasonable grounds is an employee,
11 officer or agent of the person.

12 **Examples—person other than an individual**

- 13 • corporation
14 • partnership

15 **23 Entry to premises**

16 (1) For this Act, an authorised officer may—

17 (a) at any reasonable time, enter premises that the public is entitled
18 to use or that are open to the public (whether or not on payment
19 of money); or

20 (b) at any time, enter premises with the occupier's consent; or

21 (c) at any time, enter premises if the authorised officer believes on
22 reasonable grounds that an offence against this Act is being, or
23 is likely to be, or has just been, committed at premises not on
24 public land; or

25 (d) enter premises in accordance with a search warrant.

26 (2) However—

27 (a) subsection (1) (a) does not authorise entry into a part of the
28 premises that is being used only for residential purposes; and

- 1 (b) subsection (1) (c) does not authorise entry into premises that are
2 used for residential purposes, unless the premises are also the
3 place from which a business is conducted.
- 4 (3) An authorised person may, without the occupier's consent, enter the
5 land around premises to ask for consent to enter the premises.
- 6 (4) To remove any doubt, an authorised person may enter premises under
7 subsection (1) without payment of an entry fee or other charge.
- 8 (5) An authorised person who enters premises under this section may
9 inspect the premises or anything on it.

10 **24 Production of identity card**

11 An authorised person and any other person other than a police officer
12 who is accompanying the authorised person may not remain at
13 premises entered under this part if the authorised person does not
14 produce their identity card when asked by the occupier.

15 **25 Consent to entry**

- 16 (1) This section applies if an authorised person intends to ask the
17 occupier of premises to consent to the authorised person entering the
18 premises.
- 19 (2) Before asking for the consent, the authorised person must—
- 20 (a) produce their identity card; and
- 21 (b) tell the occupier—
- 22 (i) the purpose of the entry; and
- 23 (ii) the reason for, and identity of, any other person
24 accompanying the authorised person; and
- 25 (iii) that anything found and seized under this part may be used
26 in evidence in court; and
- 27 (iv) that consent may be refused.

- 1 (3) If the occupier consents, the authorised person must ask the occupier
2 to sign a written acknowledgment (an *acknowledgment of*
3 *consent*)—
- 4 (a) that the occupier was told—
- 5 (i) the purpose of the entry; and
- 6 (ii) the reason for, and identity of, any other person
7 accompanying the authorised person; and
- 8 (iii) that anything found and seized under this part may be used
9 in evidence in court; and
- 10 (iv) that consent may be refused; and
- 11 (b) that the occupier consents to the entry; and
- 12 (c) stating the time and date when consent was given.
- 13 (4) If the occupier signs an acknowledgment of consent, the authorised
14 person must immediately give a copy to the occupier.
- 15 (5) A court must find that the occupier did not consent if—
- 16 (a) a question arises, in a proceeding in the court, whether the
17 occupier consented to the authorised person entering the
18 premises under this part; and
- 19 (b) an acknowledgment under this section is not produced in
20 evidence for the entry; and
- 21 (c) it is not proved that the occupier consented to the entry.

22 **26 General powers on entry to premises**

- 23 (1) An authorised person who enters premises under this part may, for
24 this Act, do 1 or more of the following in relation to the premises or
25 anything at the premises:
- 26 (a) examine anything;

- 1 (b) examine and copy, or take extracts from, documents relating to
2 a contravention, or possible contravention, of this Act;
- 3 (c) take photographs, films, or audio, video or other recordings;
- 4 (d) require the occupier, or anyone at the premises, to give
5 information, answer questions, or produce a document or
6 anything else (whether the information, document or other thing
7 is at the premises or elsewhere) that the occupier or person at the
8 premises has, or has access to, that is reasonably necessary to
9 exercise a function under this Act;
- 10 (e) require the occupier, or anyone else at the premises, to give the
11 authorised person copies of documents produced under
12 paragraph (d) that are reasonably necessary to exercise a
13 function under this Act;
- 14 (f) require the occupier, or anyone else at the premises, to give the
15 authorised person reasonable help to exercise a power under this
16 part.

17 *Note* The [Legislation Act](#), s 170 and s 171 deal with the application of the
18 privilege against self-incrimination and client legal privilege.

- 19 (2) A person must take all reasonable steps to comply with a requirement
20 made of the person under subsection (1) (d), (e) or (f).

21 Maximum penalty: 50 penalty units.

22 **27 Power to obtain information**

- 23 (1) An authorised person may, in writing, require any of the following
24 people to give the authorised person information, or produce
25 documents or anything else, that the person has, or has access to, that
26 are reasonably required by the authorised person for this Act:
- 27 (a) a person who supplies food or beverages in the ACT;
- 28 (b) a person who supplies or manufactures plastic products in the
29 ACT.

1 (2) A person must take reasonable steps to comply with a requirement
2 made of the person under this section.

3 Maximum penalty: 50 penalty units.

4 **28 Abrogation of privilege against self-incrimination**

5 (1) A person is not excused from answering a question or providing
6 information or a document under this part on the ground that the
7 answer to the question, or the information or document, may tend to
8 incriminate the person or expose the person to a penalty.

9 (2) However, any information, document or thing obtained, directly or
10 indirectly, because of the giving of the answer or the production of
11 the document is not admissible in evidence against the person in a
12 civil or criminal proceeding, other than a proceeding for an offence
13 arising out of the false or misleading nature of the answer,
14 information or document.

15 **29 Warning to be given**

16 (1) Before requiring a person to comply with a requirement under
17 section 26 (1) (d) or (e) or section 27, an authorised person must warn
18 the person—

19 (a) that failure to comply constitutes an offence; and

20 (b) about the effect of section 28.

21 (2) It is not an offence for an individual to refuse to answer a question
22 put by an authorised person or provide information or a document to
23 an authorised person under section 26 (1) (d) or (e) or section 27 on
24 the ground that the question, information or document might tend to
25 incriminate the individual, unless the individual was first given the
26 warning in subsection (1) (b).

27 (3) Nothing in this section prevents an authorised person from obtaining
28 and using evidence given to the authorised person voluntarily by any
29 person.

- 1 **30 Power to seize things**
- 2 (1) An authorised person who enters premises under this part with the
3 occupier’s consent may seize anything at the premises if seizure of
4 the thing is consistent with the purpose of the entry told to the
5 occupier when seeking the occupier’s consent.
- 6 (2) An authorised person who enters premises under a warrant under this
7 part may seize anything at the premises that the authorised person is
8 authorised to seize under the warrant.
- 9 (3) An authorised person who enters premises under this part (whether
10 with the occupier’s consent, under a warrant or otherwise) may seize
11 anything at the premises if satisfied on reasonable grounds that—
- 12 (a) the thing is connected with an offence against this Act; and
13 (b) the seizure is necessary to prevent the thing from being—
- 14 (i) concealed, lost or destroyed; or
15 (ii) used to commit, continue or repeat the offence.
- 16 (4) Having seized a thing, an authorised person may—
- 17 (a) remove the thing from the premises where it was seized (the
18 *place of seizure*) to another place; or
19 (b) leave the thing at the place of seizure but restrict access to it.
- 20 (5) A person commits an offence if—
- 21 (a) the person interferes with a seized thing, or anything containing
22 a seized thing, to which access has been restricted under
23 subsection (4); and
24 (b) the person does not have an authorised person’s approval to
25 interfere with the thing.
- 26 Maximum penalty: 50 penalty units.
- 27 (6) An offence against subsection (5) is a strict liability offence.

- 1 **31 Direction to give name and address**
- 2 (1) This section applies if an authorised person believes on reasonable
3 grounds that a person—
- 4 (a) has committed, is committing or is about to commit an offence
5 against this Act; or
- 6 (b) may be able to assist in the investigation of an offence against
7 this Act.
- 8 *Note* A reference to an Act includes a reference to the statutory instruments
9 made or in force under the Act, including any regulation (see [Legislation](#)
10 [Act](#), s 104).
- 11 (2) The authorised person may direct the person to give the authorised
12 person, immediately, either of the following personal details:
- 13 (a) the person’s full name;
- 14 (b) the person’s home address.
- 15 *Note* The authorised person must first show the person the authorised person’s
16 identity card (see s 22).
- 17 (3) If the authorised person believes on reasonable grounds that a
18 personal detail given by a person in response to a name and address
19 direction is false or misleading, the authorised person may direct the
20 person to produce evidence, immediately, of the correctness of the
21 detail.
- 22 (4) If an authorised person gives a direction to a person, the authorised
23 person must tell the person that it is an offence if the person fails to
24 comply with the direction.
- 25 (5) If an authorised person gives a direction to a person, the authorised
26 person must give the direction in a language, or in a way of
27 communicating, that the authorised person believes on reasonable
28 grounds the person is likely to understand.

- 1 **32** **Offence—fail to comply with direction to give name and**
2 **address**
- 3 (1) A person commits an offence if the person fails to comply with a
4 direction under section 31.
- 5 Maximum penalty: 5 penalty units.
- 6 *Note* It is an offence to make a false or misleading statement or give false or
7 misleading information (see [Criminal Code](#), pt 3.4).
- 8 (2) An offence against this section is a strict liability offence.
- 9 (3) This section does not apply to a person if the authorised person,
10 before giving the direction, did not—
- 11 (a) produce the authorised person’s identity card for inspection by
12 the person; or
- 13 (b) warn the person that failure to comply with the direction is an
14 offence.
- 15 (4) Also, for a direction under section 31 (3), this section does not apply
16 if the person produces evidence of the correctness of the detail not
17 more than 3 days after the day the direction was given.
- 18 *Note* The defendant has an evidential burden in relation to the matters
19 mentioned in s (3) and s (4) (see [Criminal Code](#), s 58).

20 **33** **Entry under relevant Act**

- 21 (1) If an authorised person enters premises under a relevant Act—
- 22 (a) the authorised person may exercise a power under this part in
23 relation to the premises; and
- 24 (b) with the consent of the occupier of the premises—the occupier
25 is taken to have given consent under section 25 if the occupier
26 signed a written acknowledgment that the occupier was told that
27 the authorised person may also exercise a power under this part
28 in relation to the premises.

- 1 (2) In this section:
2 *relevant Act* means—
3 (a) the *Fair Trading (Australian Consumer Law) Act 1992*; or
4 (b) the *Food Act 2001*.

5 **Division 6.3 Search warrants**

6 **34 Warrants generally**

- 7 (1) An authorised person may apply to a magistrate for a warrant to enter
8 premises.
- 9 (2) The application must—
10 (a) be sworn; and
11 (b) state the grounds on which the warrant is sought.
- 12 (3) The magistrate may refuse to consider the application until the
13 authorised person gives the magistrate all the information the
14 magistrate requires about the application in the way the magistrate
15 requires.
- 16 (4) The magistrate may issue a warrant only if satisfied there are
17 reasonable grounds for suspecting—
18 (a) there is a particular thing or activity connected with an offence
19 against this Act; and
20 (b) the thing or activity—
21 (i) is, or is being engaged in, at the premises; or
22 (ii) may be, or may be engaged in, at the premises within the
23 next 14 days.

- 1 (5) The warrant must state—
- 2 (a) that an authorised person may, with any necessary assistance
- 3 and force, enter the premises and exercise the authorised
- 4 person’s powers under this part; and
- 5 (b) the offence for which the warrant is issued; and
- 6 (c) the things that may be seized under the warrant; and
- 7 (d) the hours when the premises may be entered; and
- 8 (e) the date, within 14 days after the day of the warrant’s issue,
- 9 when the warrant ends.

10 **35 Warrants—application other than in person**

- 11 (1) An authorised person may apply for a warrant by phone, fax, radio,
- 12 email, letter or other form of communication if the authorised person
- 13 considers it necessary because of—
- 14 (a) urgent circumstances; or
- 15 (b) other special circumstances.
- 16 (2) Before applying for the warrant, the authorised person must prepare
- 17 an application stating the grounds on which the warrant is sought.
- 18 (3) The authorised person may apply for the warrant before the
- 19 application is sworn.
- 20 (4) After issuing the warrant, the magistrate must immediately give a
- 21 written copy to the authorised person if it is practicable to do so.
- 22 (5) If it is not practicable to give a written copy of the warrant to the
- 23 authorised person—
- 24 (a) the magistrate must tell the authorised person—
- 25 (i) what the terms of the warrant are; and
- 26 (ii) the date and time the warrant was issued; and

- 1 (b) the authorised person must complete a form of warrant (the
2 *warrant form*) and write on it—
- 3 (i) the magistrate’s name; and
- 4 (ii) the date and time the magistrate issued the warrant; and
- 5 (iii) the warrant’s terms.
- 6 (6) The written copy of the warrant, or the warrant form properly
7 completed by the authorised person, authorises the entry and the
8 exercise of the authorised person’s powers under this part.
- 9 (7) The authorised person must, at the first reasonable opportunity, send
10 to the magistrate—
- 11 (a) the sworn application; and
- 12 (b) if the authorised person completed a warrant form—the
13 completed warrant form.
- 14 (8) On receiving the documents mentioned in subsection (7), the
15 magistrate must attach them to the warrant.
- 16 (9) A court must find that a power exercised by an authorised person was
17 not authorised by a warrant under this section if—
- 18 (a) a question arises in a proceeding before the court whether the
19 exercise of power was authorised by a warrant; and
- 20 (b) the warrant is not produced in evidence; and
- 21 (c) it is not proved that the exercise of power was authorised by a
22 warrant under this section.

23 **36 Search warrants—announcement before entry**

- 24 (1) An authorised person must, before anyone enters premises under a
25 search warrant—
- 26 (a) announce that the authorised person is authorised to enter the
27 premises; and

- 1 (b) give anyone at the premises an opportunity to allow entry to the
2 premises; and
- 3 (c) if the occupier of the premises, or someone else who apparently
4 represents the occupier, is present at the premises—identify
5 themselves to the person.
- 6 (2) The authorised person is not required to comply with subsection (1)
7 if the authorised person believes on reasonable grounds that
8 immediate entry to the premises is required to ensure—
- 9 (a) the safety of anyone (including the authorised person or any
10 person assisting an authorised person); or
- 11 (b) that the effective execution of the warrant is not frustrated.

12 **37 Details of search warrant to be given to occupier etc**

13 If the occupier of the premises, or someone else who apparently
14 represents the occupier, is present at the premises while a search
15 warrant is being executed, the authorised person or a person assisting
16 must make available to the person—

- 17 (a) a copy of—
- 18 (i) the warrant; or
- 19 (ii) if section 34 (5) applies—the completed warrant form; and
- 20 (b) a document setting out the rights and obligations of the person.

21 **38 Occupier entitled to be present during search etc**

- 22 (1) If the occupier of the premises, or someone else who apparently
23 represents the occupier, is present at the premises while a search
24 warrant is being executed, the person is entitled to observe the search
25 being conducted.

- 1 (2) However, the person is not entitled to observe the search if—
- 2 (a) to do so would impede the search; or
- 3 (b) the person is under arrest, and allowing the person to observe
- 4 the search being conducted would interfere with the objectives
- 5 of the search.
- 6 (3) This section does not prevent 2 or more areas of the premises being
- 7 searched at the same time.

1 Part 7 Reviewable decisions

2 39 Definitions—pt 7

3 In this part:

4 *affected person* means a person given a notice to dispose of a
5 prohibited plastic product under section 12 (2).

6 *reviewable decision* means a decision under section 12 (2) to give an
7 affected person a notice requiring the affected person to dispose of a
8 prohibited plastic product.

9 40 Reviewable decision notices

10 If a person makes a reviewable decision, the person must give a
11 reviewable decision notice to the affected person in relation to the
12 decision.

13 *Note 1* The person must also take reasonable steps to give a reviewable decision
14 notice to any other person whose interests are affected by the decision
15 (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

16 *Note 2* The requirements for reviewable decision notices are prescribed under
17 the [ACT Civil and Administrative Tribunal Act 2008](#), div 6.3.

18 41 Applications for review

19 The following may apply to the ACAT for review of a reviewable
20 decision:

- 21 (a) the affected person;
- 22 (b) any other person whose interests are affected by the decision.

23 *Note* If a form is approved under the [ACT Civil and Administrative Tribunal](#)
24 [Act 2008](#) for the application, the form must be used.

Part 8 Miscellaneous

42 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) Before a regulation may be made under section 7 (1), definition of *prohibited plastic product*—

(a) the Minister must give public notice of the proposed regulation and invite public submissions about it; and

(b) the Executive must consider the following:

(i) any written submissions received in accordance with the public notice;

(ii) the availability and utility of alternative products to replace the prescribed plastic product.

- (3) The public notice must—

(a) state the plastic product to be prescribed in the proposed regulation; and

(b) state the reason for prescribing the product; and

(c) include information about any proposed exemption to be made under section 17 in relation to the product; and

(d) state that—

(i) anyone may give a written submission to the Minister about the proposed regulation; and

(ii) submissions may be given only in the period starting on the day the notice is published and ending 12 weeks later or any later day stated in the notice.

1 (4) A regulation may apply, adopt or incorporate an instrument as in force
2 from time to time.

3 *Note 1* The text of an applied, adopted or incorporated law or instrument,
4 whether applied as in force from time to time or as at a particular time, is
5 taken to be a notifiable instrument if the operation of the [Legislation Act](#),
6 s 47 (5) or (6) is not disappplied (see s 47 (7)).

7 *Note 2* A notifiable instrument must be notified under the [Legislation Act](#).

1 **Part 9 Repeals**

2 **43 Legislation repealed**

3 The following legislation is repealed:

- 4 • *Magistrates Court (Plastic Shopping Bags Ban Infringement*
5 *Notices) Regulation 2011* (SL2011-19)
6 • *Plastic Shopping Bags Ban Act 2010* (A2010-49)
7 • *Plastic Shopping Bags Ban Regulation 2011* (SL2011-18).

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- AS (see s 164 (1))
- Australian Standard (see s 164 (1))
- disallowable instrument (see s 9)
- may (see s 146)
- Minister (see s 162)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- public notice
- the Territory.

affected person, for part 7 (Reviewable decisions)—see section 39.

authorised person, for part 6 (Enforcement)—see section 19.

beverage includes water.

connected, for part 6 (Enforcement)—see section 19.

cutlery means utensils used for consuming food and includes a spork, a splade and chopsticks.

declared public event, for part 4 (Supplying other single-use plastic products—declared public events)—see section 15 (1) (a).

declared single-use plastic product, for part 4 (Supplying other single-use plastic products—declared public events)—see section 15 (1) (b).

occupier, of premises, for part 6 (Enforcement)—see section 19.

offence, for part 6 (Enforcement)—see section 19.

- 1 ***plastic*** means material made from, or comprising, organic polymers
2 from plant extracts or fossil fuels.
- 3 ***plastic product*** means a product made, in whole or in part, of plastic.
- 4 ***premises***, for part 6 (Enforcement)—see section 19.
- 5 ***prohibited plastic product***—see section 7.
- 6 ***reviewable decision***, for part 7 (Reviewable decisions)—see
7 section 39.
- 8 ***single-use***, in relation to a plastic product—see section 8.
- 9 ***supply***, a plastic product—see section 9.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2 December 2020.

2 Notification

Notified under the [Legislation Act](#) on 2020.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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