

Plastic Reduction (Public Event) Declaration 2022 (No 1)

Disallowable instrument DI2022–3

made under the

Plastic Reduction Act 2021, s 15 (Declaration of public events)

EXPLANATORY STATEMENT

Overview

Section 15 of the *Plastic Reduction Act 2021* (the Act) allows the Minister to declare that a single-use plastic product must not be supplied at a declared public event. Under s 16 it is an offence to supply a declared product to a person at a declared event. This instrument provides that certain single-use plastic items cannot be supplied at certain events.

Items

The items listed are single-use plastic straws, single-use plastic takeaway containers, single-use plastic sandwich containers, single-use plastic soup bowls, and single-use plastic salad bowls. Vendors will be required to supply non-plastic alternatives to these plastic items at the listed events. An exemption has been included for single-use plastic straws for people with disability or medical need.

The supply of items that are already prohibited under the Act (including single-use expanded polystyrene containers for serving food or a beverage, single-use plastic beverage stirrers, and single-use plastic cutlery) is also prohibited at the listed events.

Events

The events listed are Groovin the Moo 2022, Super Rugby matches at GIO Stadium Canberra, National Rugby League matches at GIO Stadium Canberra, Australian Football League matches at Manuka Oval, and Cricket matches at Manuka Oval. These are not government events so the requirements in s 15(2) of the Act apply, including that this declaration has been made not less than 3 months before these events.

Single-use plastic straws have been banned at all these events. Single-use plastic takeaway containers have been banned at Groovin the Moo, while single-use plastic sandwich containers, soup bowls and salad bowls have been banned at the other listed events.

Prohibiting these plastic items from these events will reduce plastic waste. It will also provide a demonstration of the types of alternatives available to single-use plastics.

Human rights

As a result of this instrument, certain conduct is made an offence under s 16 of the Act. This is a strict liability offence, which may be seen to engage the presumption of innocence. The Explanatory Statement for the *Plastic Reduction Bill 2020* addressed the human rights considerations related to the creation of the offence.

Plastic straws are required by some people because of a disability or medical need, and alternatives (such as paper or reusable straws) do not have all the same properties as plastic straws. Because of this, prohibiting the supply of single-use plastic straws at an event potentially affects human rights. Under s 8 of the *Human Rights Act 2004*, everyone has the right to equal and effective protection from discrimination, including discrimination because of disability. Because plastic straws are required by some people, prohibiting the supply of them could have the effect of limiting access for some people to food and drink services that are otherwise available to people at the event. However, the declaration avoids this outcome by having an exemption that allows a single-use plastic straw to be supplied to those who need them.

Under s 12 of the Human Rights Act, everyone has the right not to have his or her privacy interfered with unlawfully or arbitrarily. Making an exemption to enable access to straws for those with a disability or medical need has the potential to raise the question of whether a person has a disability or medical condition. To avoid this, the exemption states that it is not a requirement of the exemption that any form of proof or evidence is required to access a single-use plastic straw. The exemption in the declaration does not prevent those that need plastic straws from being able to access them, while still achieving the aim of reducing the number of single-use plastic straws used at the event.

Regulatory Impact Statement (RIS)

Section 34 of the *Legislation Act 2001* requires the preparation of a Regulatory Impact Statement (RIS) if a subordinate law or disallowable instrument is likely to impose appreciable costs on the community, or part of the community. The RIS prepared for the *Plastic Reduction Bill 2020* includes analysis of the impact of declaring that certain single-use plastics cannot be supplied at events. The RIS found that declaring single-use plastic products to be prohibited at events would have a higher regulatory burden than a policy approach but would create certainty and an even playing field. It identified this as the preferred approach.

Section notes

Section 1 Name of instrument

This section names the instrument.

Section 2 Commencement

This section provides for the commencement of the instrument before the start of the first event.

Section 3 Declared public event

This section provides that Part 4 of the Act, which deals with supplying other single-use plastic products at declared public events, applies to the events listed in the schedule.

Section 4 Declared single-use plastic products

This section provides that the products listed in the schedule must not be supplied at the listed events.

Section 5 Exemption

This section creates an exemption from the declaration for the supply of straws to those who need them.

Schedule

The schedule lists the events that s 3 applies to and lists the products to which s 4 applies.