

Australian Capital Territory

# Circular Economy (Public Event) Declaration 2023 (No 1)

Disallowable instrument DI2023–251

made under the

**Circular Economy Act 2023, s 21 (Minister may declare prohibitable product must not be supplied at public event)**

## EXPLANATORY STATEMENT

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### Overview

Section 21 of the *Circular Economy Act 2023* (the Act) allows the Minister to declare that a prohibitable product must not be supplied at a declared public event. Under section 22 it is an offence to supply a declared product to a person at a declared event. This instrument provides that certain prohibited single-use plastic items cannot be supplied at certain events. This instrument recreates the declaration (DI2022-3) made under the *Plastic Reduction Act 2021*, which has been repealed and replaced by the Act.

### Items

The items listed are 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.

The supply of items that are already prohibited under the Act (including single-use plastic straws, 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 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 These are not government events that were previously declared under section 15 of the now repealed *Plastic Reduction Act 2021*. The transitional provisions under section 60 of the Circular Economy Bill 2023 disapply the requirements under section 21(2) of the Act in relation to this declaration.

Single-use plastic sandwich containers, soup bowls and salad bowls have been banned at all the 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 17 of the Act. This is a strict liability offence, which may be seen to engage the presumption of innocence. The Explanatory Statement for the Circular Economy Bill 2023 addressed the human rights considerations related to the creation of the offence.

The prohibition of single-use plastic sandwich containers, soup bowls and salad bowls at declared public events is intended to reduce plastic waste and provide an opportunity for the demonstration of alternative available products. The listed products are commonly used items for which alternative products that are not single-use plastics are currently available. As such, there is a rational connection between this ban and the intended purpose.

This prohibition is reasonable as it is limited to declared events at which vendors will be required to supply alternative products. This declaration provides reasonable notice of which items are not permitted at the recurring events that are listed. This information is equally available to all vendors at the listed events due to its public nature. This instrument continues the existing prohibition of the listed items at the listed events by recreating the declaration (DI2022-3) made under the Plastic Reduction Act. That declaration has been in force since 24 April 2022. This instrument does not add any new declared public events or any new declared single-use plastic products.

## **Regulatory Impact Statement**

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. A new RIS is not required as this instrument is transitional in nature, meaning there is no substantive change to the original instrument and the impacts on the community have not changed.

## **Section notes**

### **Section 1 Name of instrument**

This section names the instrument.

### **Section 2 Commencement**

This section provides for the commencement of the instrument on the day the Circular Economy Act 2023, section 3 commences.

**Section 3      Declared public event**

This section provides that division 3.3 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.

**Schedule**

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