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*Confidential Draft prepared by the Office of Chief Parliamentary Counsel Victoria*

## **Environment Protection Amendment (Banning Single-Use Plastic Items) Regulations 2022**

**S.R. No.**

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STATUTORY RULES 2022

*Third Draft 23/3/2022*

S.R. No.

*Environment Protection Act 2017*

**Environment Protection Amendment (Banning  
Single-Use Plastic Items) Regulations 2022**

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

LILY D'AMBROSIO

Minister for Energy, Environment and Climate Change

Clerk of the Executive Council

**1 Objective**

The objective of these Regulations is to amend the Environment Protection Regulations 2021 to encourage persons and entities to reduce the overall use of certain single-use plastic items, by banning the sale, supply, distribution or provision of those items.

**2 Authorising provision**

These Regulations are made under section 465 of the **Environment Protection Act 2017**.

**3 Commencement**

These Regulations come into operation on 1 February 2023.

#### **4 Principal Regulations**

In these Regulations, the Environment Protection Regulations 2021<sup>1</sup> are called the Principal Regulations.

#### **5 Heading to Part 5.5 substituted**

For the heading to Part 5.5 of the Principal Regulations substitute—

**"Part 5.5—Plastic shopping bag ban and single-use plastic item ban".**

#### **6 New heading to Division 1 of Part 5.5 inserted**

Before regulation 133 of the Principal Regulations insert—

**"Division 1—Plastic shopping bag ban".**

#### **7 New Division 2 of Part 5.5 inserted**

After regulation 134 of the Principal Regulations insert—

**"Division 2—Single-use plastic item ban**

#### **134A Definitions**

In this Division—

*banned single-use plastic item* has the meaning set out in regulation 134B;

*correctional, mental health, police or youth justice facility* means the following—

- (a) a community corrections centre within the meaning of the **Corrections Act 1986**;

- (b) a location within the meaning of the **Corrections Act 1986**;
- (c) a mental health facility within the meaning of the **Mental Health Act 2014**;
- (d) a police gaol within the meaning of the **Corrections Act 1986**;
- (e) a prison within the meaning of the **Corrections Act 1986**;
- (f) a remand centre within the meaning of the **Children, Youth and Families Act 2005**;
- (g) a residential facility within the meaning of the **Serious Offenders Act 2018**;
- (h) a residential treatment facility within the meaning of the **Disability Act 2006**;
- (i) a residential treatment facility within the meaning of the **Serious Offenders Act 2018**;
- (j) a youth justice centre within the meaning of the **Children, Youth and Families Act 2005**;
- (k) a youth residential centre within the meaning of the **Children, Youth and Families Act 2005**;
- (l) any other facility, place or premise at which a person may be detained or held in custody according to law;
- (m) any other facility, place or premise at which an offender is required to attend under a correctional order;

***correctional order*** has the same meaning as in the **Corrections Act 1986**;

***correctional services*** has the same meaning as in the **Corrections Act 1986**;

***designated person*** means a person who requires a single-use plastic drinking straw due to a disability or for medical reasons;

***entity*** means—

- (a) a body corporate; or
- (b) a body or organisation carrying out an activity for charitable, sporting, education or community purposes; or
- (c) a council; or
- (d) an Alpine Resort Management Board established under the **Alpine Resorts (Management) Act 1997**;

***integrated item*** means a plastic item that is, as the result of a machine automated process—

- (a) an integrated part of packaging material used to seal or contain food or beverages; or
- (b) included within or attached to packaging material used to seal or contain food or beverages, including pre-packaged portions of food or beverages;

***offender*** means a person of whatever age who is the subject of a correctional order;

***reusable*** means a plastic item that is manufactured—

- (a) to be used for the same purpose on multiple occasions; and
- (b) with a warranty (or other written representation from the manufacturer as to the length of time the item is designed to last) of at least one year;

***supply*** means supply in the course of business, whether by offer of sale or otherwise.

**134B What is a banned single-use plastic item?**

- (1) Subject to subregulation (2), a banned single-use plastic item means an item that—
  - (a) is either wholly or partly comprised of plastic, whether or not that plastic is biodegradable, degradable or compostable; and
  - (b) is not reusable.
- (2) The following are not banned single-use plastic items—
  - (a) before and until 31 December 2025, integrated items that are single-use plastic drinking straws, cutlery or sealed expanded polystyrene cups;
  - (b) paper or cardboard plates lined with any plastic;
  - (c) single-use plastic drinking straws that are used or intended to be used by a designated person;

- (d) single-use plastic cotton bud sticks used or intended to be used for testing carried out for scientific, medical, forensic or law enforcement purposes;
  - (e) single-use plastic cutlery used or intended to be used by a correctional, mental health, police or youth justice facility for health and safety purposes.
- (3) In this regulation—
- item* means the following—
- (a) drinking straws;
  - (b) cutlery, including knives, forks, spoons, chopsticks, splades, food picks and sporks;
  - (c) plates;
  - (d) drink stirrers or sticks;
  - (e) expanded polystyrene food service items, including plates, cups, bowls, clam shells and any cover or lid;
  - (f) expanded polystyrene drink containers, including any cover or lid of such a container;
  - (g) cotton bud sticks.

**134C Offence to sell, supply, distribute or provide banned single-use plastic items**

A person conducting a business or an undertaking must not, without a reasonable excuse, sell, supply, distribute or provide, or cause to sell, supply, distribute or provide, a banned single-use plastic item, whether free of charge or otherwise.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**Note**

An infringement notice may be served for an offence against this regulation—see regulation 169 and Schedule 10.

**134D Exception for sale, supply, distribution or provision of drinking straws to designated persons**

- (1) Regulation 134C does not apply in respect of the sale, supply, distribution or provision of a single-use plastic drinking straw—
  - (a) on request, to a designated person; or
  - (b) on request, to a person or entity acting on behalf of a designated person; or
  - (c) to a person or entity that the person selling, supplying, distributing or providing the straw reasonably believes is a designated person or acting on behalf of a designated person.
- (2) For the purposes of subregulation (1)(c), no evidence or other verification of whether a person or entity is a designated person or acting on behalf of a designated person is required for a belief described in subregulation (1)(c) to be taken to be reasonable.

**134E Offence to provide false or misleading information**

A person conducting a business or an undertaking must not, whether by act or omission, in the course of conducting the business or undertaking provide to any other person or any entity information that the



person conducting the business or undertaking knows, or should reasonably know, is false or misleading about—

- (a) the composition of a banned single-use plastic item; or
- (b) whether or not an item is a banned single-use plastic item.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate."

**8 Schedule 10—Infringement offences and infringement penalties**

After item 44 in the table in Schedule 10 to the Principal Regulations **insert**—

"44A	Regulation 134C	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate".
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## **Endnotes**

<sup>1</sup> Reg. 4: S.R. No. 47/2021 as amended by S.R. Nos 82/2021, 92/2021, 123/2021, 131/2021 and 132/2021.