



Western Australia

Environmental Protection Act 1986

# **Environmental Protection (Prohibited Plastics) Regulations 2018**



# Environmental Protection (Prohibited Plastics) Regulations 2018

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# Environmental Protection (Prohibited Plastics) Regulations 2018

## Part 1 — Preliminary

### 1. Citation

These regulations are the *Environmental Protection (Prohibited Plastics) Regulations 2018*.

[Regulation 1 amended: SL 2021/215 r. 4.]

### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) regulations 4 and 7(2) — on 1 January 2019;
- (c) the rest of the regulations — on 1 July 2018.

### 3. Terms used

In these regulations —

**accreditation authority** means the National Association of Testing Authorities Australia (ACN 004 379 748) or another body (whether in Australia or another country) that the CEO considers performs substantially equivalent accreditation functions;

**AS 4736-2006** means Australian Standard 4736-2006 *Biodegradable plastics - Biodegradable plastics suitable for composting and other microbial treatment* published by Standards Australia, as in effect from time to time;

**AS 5810-2010** means Australian Standard 5810-2010 *Biodegradable plastics - Biodegradable plastics suitable for home composting* published by Standards Australia, as in effect from time to time;

**barrier bag** means a plastic bag without handles used to carry unpackaged perishable food;

**bowl** includes a container that —

- (a) is designed to contain food; and
- (b) has a round rim and a flat base; and
- (c) tapers towards the base; and
- (d) holds at least 1 serve of food;

**cup** does not include a lid for a cup;

**cutlery** —

- (a) means utensils used for eating food; and
- (b) includes knives, forks, spoons, chopsticks, splayds and sporks;

**disposable plastic item** means an item made wholly or partly out of plastic if —

- (a) the item is designed to be disposed of after a single use or several uses; or
- (b) the design and construction of the item is not sufficiently durable to enable the item to be kept and reused on an ongoing basis;

**food container** —

- (a) means a container (with or without a lid) that is designed to contain food; but
- (b) does not include a cup or bowl;

**medical care provider** means an individual who practises a health profession within the meaning of the *Health Practitioner Regulation National Law (Western Australia)* section 5 but excludes a pharmacist or optometrist;

**plastic** —

- (a) means a material made from or comprising organic polymers of plant or fossil fuel origin; and
- (b) includes expanded polystyrene;

**prescribed drinking straw** means a drinking straw that is a disposable plastic item;

**prescribed plastic bag** —

- (a) means a bag that is —
  - (i) made in whole or in part of plastic; and
  - (ii) has handles; and
  - (iii) has a thickness of 35 microns or less;but
- (b) does not include a bag that is —
  - (i) a barrier bag; or
  - (ii) a plastic bag that is, or is an integral part of, the packaging in which goods are sealed for sale; or
  - (iii) a plastic bag provided by a medical care provider to a person receiving services from that medical care provider;

**prescribed plastic item** has the meaning given in regulation 3A;

**retailer** means a person who sells goods in trade or commerce;

**supply** includes sell, provide and make available.

[Regulation 3 amended: SL 2021/215 r. 5.]

### **3A. Prescribed plastic item**

- (1) A disposable plastic item is a **prescribed plastic item** if it is any of the following —
  - (a) an item of cutlery;
  - (b) a drink stirrer;
  - (c) a plate;

**r. 3A**

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- (d) a food container (made from plastic that is not expanded polystyrene) without a lid;
  - (e) a food container made from expanded polystyrene;
  - (f) a lid made from expanded polystyrene for a food container;
  - (g) a tray made from expanded polystyrene;
  - (h) a bowl without a lid.
- (2) Without limiting subregulation (1), **prescribed plastic item** includes an item referred to in that subregulation that is —
- (a) made wholly or partly of degradable, oxo-degradable, biodegradable or compostable plastic; or
  - (b) made from plastic-laminated paper or plastic-laminated cardboard.
- (3) Despite subregulations (1) and (2), a disposable plastic item that is any of the following is not a **prescribed plastic item** —
- (a) a reusable cooler box made from expanded polystyrene;
  - (b) a lid made from expanded polystyrene for a reusable cooler box;
  - (c) a food container or bowl that is made from paperboard and certified as biodegradable.
- (4) For the purposes of subregulation (3)(c), an item is **certified as biodegradable** if —
- (a) a person accredited by an accreditation authority has issued a certificate verifying that the item complies with AS 4736-2006 or AS 5810-2010; and
  - (b) the certificate's period of validity has not expired.

[Regulation 3A inserted: SL 2021/215 r. 6.]



## **Part 2 — Offences relating to plastic bags**

### **4. Offence to supply prescribed plastic bag**

A retailer must not supply a prescribed plastic bag to a person for the person to carry goods sold by the retailer.

Penalty: a fine of \$5 000.

### **5. Offence to give false or misleading information about a prescribed plastic bag**

A person who supplies or manufactures prescribed plastic bags must not give any information that the person knows is false or misleading to another person about —

- (a) the composition of a prescribed plastic bag; or
- (b) whether or not a plastic bag is a prescribed plastic bag.

Penalty: a fine of \$5 000.

### **6. Reference to prescribed plastic bag before commencement of *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2021 Pt. 3***

In the period beginning on 1 January 2022 and ending on 30 June 2022, a reference in regulation 5 to a prescribed plastic bag includes a reference to a bag that will be a prescribed plastic bag for the purposes of these regulations immediately after the *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2021 Part 3* comes into operation.

*[Regulation 6 inserted: SL 2021/215 r. 7.]*

### **Part 3 — Offence relating to plastic items**

*[Heading inserted: SL 2021/215 r. 8.]*

**7. Offence to give false or misleading information about prescribed plastic item or prescribed drinking straw**

A person who supplies or manufactures prescribed plastic items or prescribed drinking straws must not give any information that the person knows is false or misleading to another person about —

- (a) the composition of a prescribed plastic item or prescribed drinking straw; or
- (b) whether or not a plastic item is a prescribed plastic item.

Penalty: a fine of \$5 000.

*[Regulation 7 inserted: SL 2021/215 r. 8.]*

**8. Reference to prescribed plastic item before commencement of *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2021 Pt. 4***

In the period beginning on 1 January 2022 and ending on 30 June 2022, a reference in regulation 7 to a prescribed plastic item includes a reference to an item that will be a prescribed plastic item for the purposes of these regulations immediately after the *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2021 Part 4* comes into operation.

*[Regulation 8 inserted: SL 2021/215 r. 8.]*

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## Notes

This is a compilation of the *Environmental Protection (Prohibited Plastics) Regulations 2018* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

Citation	Published	Commencement
<i>Environmental Protection (Plastic Bags) Regulations 2018</i> <sup>1</sup>	12 Jun 2018 p. 1890-1	r. 1 and 2: 12 Jun 2018 (see r. 2(a)); Regulations (other than r. 1, 2, 4 and 7(2)): 1 Jul 2018 (see r. 2(c)); r. 4 and 7(2): 1 Jan 2019 (see r. 2(b))
<i>Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2021 Pt. 2 Div. 1</i>	SL 2021/215 17 Dec 2021	1 Jan 2022 (see r. 2(b));

### Uncommenced provisions table

To view the text of the uncommenced provisions see *Subsidiary legislation as made on the WA Legislation website*.

Citation	Published	Commencement
<i>Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2021 Pt. 3 Div. 1 and Pt. 4</i>	SL 2021/215 17 Dec 2021	Pt. 3 Div. 1: 1 Jul 2022 (see r. 2(c)); Pt. 4: 1 Oct 2022 (see r. 2(d))

### Other notes

<sup>1</sup> Now known as the *Environmental Protection (Prohibited Plastics) Regulations 2018*; citation changed (see note under r. 1).

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
accreditation authority .....	3
AS 4736-2006 .....	3
AS 5810-2010 .....	3
barrier bag .....	3
bowl .....	3
certified as biodegradable .....	3A(4)
cup .....	3
cutlery .....	3
disposable plastic item .....	3
food container .....	3
medical care provider .....	3
plastic .....	3
prescribed drinking straw .....	3
prescribed plastic bag .....	3
prescribed plastic item .....	3, 3A(1), (2) and (3)
retailer .....	3
supply .....	3