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**ENVIRONMENT**

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EV301

Environmental Protection Act 1986

**Environmental Protection Regulations  
Amendment (Prohibited Plastics and Balloons)  
Regulations 2023**

SL 2023/13

Made by the Governor in Executive Council.

**Part 1 — Preliminary****1. Citation**

These regulations are the *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2023*.

**2. Commencement**

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 March 2023.

## **Part 2 — *Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018* amended**

### **3. Regulations amended**

This Part amends the *Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018*.

### **4. Regulation 3 amended**

- (1) In regulation 3 delete the definitions of:

*accreditation authority*

*barrier bag*

*cup*

*pre-packaged food or drink product*

*prescribed drinking straw*

- (2) In regulation 3 insert in alphabetical order:

*biodegradable plastic* means plastic that —

- (a) is able to be broken down by microorganisms into carbon dioxide, water, biomass and a mineral residue; and
- (b) does not contain an additive designed to accelerate fragmentation of the plastic;

*catering platter* means a prescribed plastic item that —

- (a) is —
  - (i) a food tray; or
  - (ii) a food container that has a lid on it (whether the lid is an integrated part of the food container or is detachable);

and

- (b) is designed to be used to contain multiple serves of food for the purposes of catering at a function or event;

*cotton bud* does not include an item designed to be used —

- (a) by a medical care provider in the course of conducting their practice as a medical care provider; or
- (b) as a swab to collect a specimen for scientific or medical testing;

*degradable plastic* —

- (a) means plastic that contains an additive designed to accelerate fragmentation of the plastic into smaller pieces under certain conditions, including exposure to light, bacteria or heat; but

(b) does not include biodegradable plastic;

***degradable plastic item*** means an item or product made wholly or partly from degradable plastic;

***eat-in food*** means food that is intended to be eaten at the premises at which it is supplied;

***expanded plastic*** includes expanded polystyrene, expanded polyethylene and expanded polypropylene;

***lid*** includes a plastic film that is designed to be heat sealed to the rim of a food container, food tray, bowl or cup;

***microbead*** means a plastic particle of less than 5 mm at its widest point;

***moulded packaging*** has the meaning given in regulation 3BB(1)(c);

***pre-packaged food or drink product*** means a pre-packaged product that is a food or drink product;

***pre-packaged food product*** means a pre-packaged product that is a food product;

***pre-packaged product*** means a product that —

- (a) arrives at the premises from which it is to be supplied to a consumer in a container or packaging in or by which the product is wholly enclosed, whether or not it is also in an outer container or packaging that contains multiple units of the product; and
- (b) is not designed to be removed from its container or packaging, other than any outer container or packaging, before it is supplied to the consumer;

***pre-packed takeaway food*** —

- (a) means takeaway food that is prepared in advance, and placed in a food container, food tray or bowl, before being put on display for the purposes of being selected by a consumer; but
- (b) does not include takeaway food that is prepared, or placed into a food container, food tray or bowl, following an order or request by a consumer;

***prescribed drinking straw*** has the meaning given in regulation 3BA;

***prescribed expanded plastic packaging*** has the meaning given in regulation 3BB;

***prescribed microbead product*** means a product —

- (a) that is —
  - (i) a rinse-off cleaning product; or
  - (ii) a rinse-off personal care product;

and

- (b) that contains microbeads;

***rinse-off cleaning product*** —

- (a) means a cleaning product that is designed to be rinsed off or removed with water immediately or shortly after application; and
- (b) does not include a product designed to be used for compressed air-blasting or cleaning closed system industrial equipment;

***rinse-off personal care product*** has the meaning given in regulation 3BC;

- (3) In regulation 3 in the definition of ***plastic*** paragraph (b) delete “polystyrene; but” and insert:

plastic; but

## 5. Regulation 3A amended

- (1) In regulation 3A(1):

- (a) in paragraph (d) delete “container (made from plastic that is not expanded polystyrene) without a lid;” and insert:

container;

- (b) delete paragraph (e);
- (c) in paragraph (f) delete “made from expanded polystyrene”;
- (d) delete paragraphs (g) to (i) and insert:

- (g) a food tray;
- (h) a lid for a food tray;
- (i) a bowl;
- (j) a lid for a bowl;
- (k) a cup;
- (l) a lid for a cup;
- (m) a cotton bud.

- (2) Delete regulation 3A(2) and insert:

- (2) A ***prescribed plastic item*** includes an item referred to in subregulation (1) that is —



- (a) made wholly or partly from biodegradable plastic; or
  - (b) made wholly or partly from plastic-laminated paper or plastic-laminated cardboard.
- (2A) On and after 1 September 2023, despite subregulations (1) and (2), a *prescribed plastic item* does not include a degradable plastic item.

Note for this subregulation:

On and after 1 September 2023, regulation 17 applies to the supply of an item that is a degradable plastic item.

- (3) In regulation 3A(3):
- (a) in paragraph (a) delete “polystyrene;” and insert:  
  
plastic;
  - (b) in paragraph (b) delete “polystyrene” and insert:  
  
plastic
  - (c) in paragraph (c) after “container,” insert:  
  
food tray,
  - (d) delete paragraph (d) and insert:  
  
(d) a lid for a food container, food tray or bowl if the lid is made from paperboard and certified as biodegradable.
- (4) In regulation 3A(4):
- (a) delete “(3)(c),” and insert:  
  
(3)(c) and (d),
  - (b) in paragraph (a) delete “accredited by an accreditation authority” and insert:  
  
or body accredited in a manner approved by the CEO

**6. Regulation 3B amended**

(1) Delete regulation 3B(1) and (2) and insert:

(1) A *prescribed plastic bag* is —

- (a) a bag (a *carry bag*) with handles that is made wholly or partly from plastic and is designed to convey goods purchased from a retailer; or
- (b) a bag (a *barrier bag*) without handles that is made wholly or partly from plastic and is used to carry unpackaged fresh fruit or vegetables.

(2) A *prescribed plastic bag* includes a bag referred to in subregulation (1) that is —

- (a) made wholly or partly from biodegradable plastic; or
- (b) made wholly or partly from plastic-laminated paper or plastic-laminated cardboard.

(2A) On and after 1 September 2023, despite subregulations (1) and (2), a *prescribed plastic bag* does not include a degradable plastic item.

Note for this subregulation:

On and after 1 September 2023, regulation 17 applies to the supply of a bag that is a degradable plastic item.

(2) In regulation 3B(3):

- (a) delete paragraph (a);
- (b) in paragraph (d) delete “shopping bag” and insert:

carry bag or barrier bag

- (c) in paragraph (e) delete “shopping” and insert:

carry

**7. Regulations 3BA to 3BC inserted**

After regulation 3B insert:

**3BA. Prescribed drinking straw**

- (1) A *prescribed drinking straw* is a drinking straw that is a disposable plastic item.
- (2) A *prescribed drinking straw* includes a straw referred to in subregulation (1) that is —
  - (a) made wholly or partly from biodegradable plastic; or

- (b) made wholly or partly from plastic-laminated paper or plastic-laminated cardboard.
- (3) On and after 1 September 2023, a ***prescribed drinking straw*** does not include a drinking straw that is a degradable plastic item.

Note for this subregulation:

On and after 1 September 2023, regulation 17 applies to the supply of a drinking straw that is a degradable plastic item.

### **3BB. Prescribed expanded plastic packaging**

- (1) ***Prescribed expanded plastic packaging*** means any of the following made wholly or partly from expanded plastic —
  - (a) loose-fill or void-fill packaging;
  - (b) packaging for a pre-packaged food or drink product other than a non-perishable pre-packaged food product;
  - (c) packaging (***moulded packaging***) that is moulded to protect a specific item.
- (2) ***Prescribed expanded plastic packaging*** includes packaging referred to in subregulation (1) that is made wholly or partly from expanded plastic that is biodegradable plastic.
- (3) Despite subregulations (1) and (2), ***prescribed expanded plastic packaging*** does not include the following —
  - (a) packaging that is a degradable plastic item;
  - (b) a reusable cooler box;
  - (c) a lid for a reusable cooler box.

Note for subregulation (3)(a):

On and after 1 September 2023, regulation 17 applies to the supply of expanded plastic packaging that is a degradable plastic item.

### **3BC. Rinse-off personal care product**

A ***rinse-off personal care product*** means —

- (a) a personal care product that is designed to be rinsed off or removed with water immediately or shortly after application; or
- (b) a hair colour or dye.

Note for this regulation:

1. The following are examples of products that are designed to be rinsed off or removed with water immediately or shortly after application —
  - (a) shampoo;
  - (b) conditioner;

- (c) shaving cream;
  - (d) mouthwash;
  - (e) toothpaste;
  - (f) a face, body, hand or foot wash product, including an exfoliant;
  - (g) a face, hand or foot mask product.
2. The following are examples of products that are not designed to be rinsed off or removed with water immediately or shortly after application —
- (a) deodorant;
  - (b) make-up;
  - (c) moisturiser.

**8. Regulation 3D amended**

In regulation 3D delete “item or prescribed drinking straw” and insert:

item, prescribed drinking straw, degradable plastic item, prescribed microbead product or prescribed expanded plastic packaging

**9. Regulation 4A inserted**

After regulation 4 insert:

**4A. Offence in r. 4 does not apply to certain prescribed plastic bags before 1 March 2024**

Regulation 4 does not apply to the supply of a prescribed plastic bag that is a barrier bag as defined in regulation 3B(1)(b) unless the supply occurs on or after 1 March 2024.

**10. Regulation 6 deleted**

Delete regulation 6.

**11. Regulation 7 amended**

(1) Delete regulation 7(2) and insert:

(2) Subregulation (1) does not apply to the supply of a prescribed plastic item if the item forms part of, is attached to, or is inside the sealed packaging of, a pre-packaged food or drink product.

Examples for this subregulation:

- 1. A spoon attached to, or sealed inside, a pre-packaged yoghurt container.
- 2. A fork attached to, or sealed inside, a pre-packaged instant noodles packet.

3. A bowl or cup that forms part of a pre-packaged instant noodles packet.
  4. A plate sealed inside a pre-packaged frozen meal.
- (2A) Subregulation (1) does not apply to the supply of a prescribed plastic item that is a food container, food tray or bowl if, when the food container, food tray or bowl is supplied, it —
- (a) contains food that is not eat-in food or takeaway food; and
  - (b) has a lid on it (whether the lid is an integrated part of the food container, food tray or bowl or is detachable).
- (2B) Subregulation (1) does not apply to the supply of a prescribed plastic item that is a lid for a food container, lid for a food tray or lid for a bowl if, when it is supplied —
- (a) the lid is attached to a food container, food tray or bowl that contains food that is not eat-in food or takeaway food; or
  - (b) the lid is attached to a food container, food tray or bowl that —
    - (i) is not a prescribed plastic item; and
    - (ii) contains pre-packed takeaway food.
- (2C) Subregulation (1) does not apply to the supply of a prescribed plastic item that is a catering platter, or a lid attached to a catering platter, if the catering platter —
- (a) contains food when it is supplied; and
  - (b) is supplied in the course of conducting a business that provides catering services for functions or events.
- (2D) The exceptions in subregulations (2A) to (2C) do not apply in relation to a prescribed plastic item that is made from expanded plastic.
- (2) Delete regulation 7(4) and (5) and insert:
- (4) Subregulation (1) does not apply to the wholesale supply of a prescribed plastic item if the wholesale supplier believes on reasonable grounds that the person to whom the item is supplied by the wholesale supplier, or another person to whom the item is subsequently to be supplied, will —
    - (a) use the item to prepare a pre-packaged food or drink product; or

- (b) in the case of a prescribed plastic item that is a food container, a food tray or a bowl — supply the item as permitted under subregulation (2A); or
- (c) in the case of a prescribed plastic item that is a lid for a food container, a lid for a food tray or a lid for a bowl — supply the item as permitted under subregulation (2B); or
- (d) in the case of a prescribed plastic item that is a catering platter or a lid for a catering platter — supply the item as permitted under subregulation (2C); or
- (e) use the item in connection with the service or consumption of food or drink on an aircraft.

## **12. Regulations 7A to 7C inserted**

At the end of Part 3 Division 1 insert:

### **7A. Offence in r. 7(1) does not apply to certain supplies before 1 September 2023**

- (1) Regulation 7(1) does not apply to the supply before 1 September 2023 of a prescribed plastic item of any of the following kinds —
  - (a) a cotton bud;
  - (b) a cup made from expanded plastic;
  - (c) a food tray made from expanded plastic that is used solely as packaging for raw meat or seafood.
- (2) Regulation 7(1) does not apply to the wholesale supply before 1 September 2023 of a prescribed plastic item that is a food tray made from expanded plastic if the wholesale supplier believes on reasonable grounds that the person to whom the item is supplied by the wholesale supplier, or another person to whom the item is subsequently to be supplied, will use the item as packaging for raw meat or seafood.

### **7B. Offence in r. 7(1) does not apply to certain supplies before 1 March 2024**

- (1) Regulation 7(1) does not apply to the supply before 1 March 2024 of a prescribed plastic item of any of the following kinds —
  - (a) a food tray (made from plastic that is not expanded plastic) without a lid on it;
  - (b) a cup that contains a hot drink or soup when it is supplied;

- (c) a lid for a cup.
- (2) Regulation 7(1) does not apply to the wholesale supply before 1 March 2024 of a prescribed plastic item that is a cup of a kind that is suitable to be used to contain a hot drink or soup.

**7C. Offence in r. 7(1) does not apply to certain supplies before 1 September 2024**

- (1) Regulation 7(1) does not apply to the supply before 1 September 2024 of a prescribed plastic item of any of the following kinds —
  - (a) a food container (made from plastic that is not expanded plastic) with a lid on it, whether the lid is an integrated part of the food container or is detachable;
  - (b) a lid (made from plastic that is not expanded plastic) for a food container;
  - (c) a food tray (made from plastic that is not expanded plastic) with a lid on it, whether the lid is an integrated part of the food tray or is detachable;
  - (d) a lid for a food tray;
  - (e) a bowl with a lid on it, whether the lid is an integrated part of the bowl or is detachable;
  - (f) a lid for a bowl.
- (2) Regulation 7(1) does not apply to the wholesale supply before 1 September 2024 of a prescribed plastic item that is a food container (made from plastic that is not expanded plastic) without a lid on it, a food tray (made from plastic that is not expanded plastic) without a lid on it or a bowl without a lid on it if the wholesale supplier believes on reasonable grounds that the person to whom the item is supplied by the wholesale supplier, or another person to whom the item is subsequently to be supplied, will use the item with a lid on it.

**13. Regulation 17 deleted**

Delete regulation 17.

**14. Parts 3A to 3C inserted**

Before Part 4 insert:

**Part 3A — Offences relating to degradable plastic items****17. Offence to supply degradable plastic item**

A person must not, in the course of conducting a business or undertaking, supply a degradable plastic item.

Penalty: a fine of \$5 000.

**17A. Offence in r. 17 does not apply to supplies before 1 September 2023**

Regulation 17 does not apply to the supply of a degradable plastic item before 1 September 2023.

**17B. Offence to give false or misleading information about degradable plastic item**

A person who supplies or manufactures degradable plastic items must not give any information that the person knows is false or misleading to another person about the composition of a degradable plastic item.

Penalty: a fine of \$5 000.

**Part 3B — Offences relating to prescribed microbead products****17C. Offence to supply prescribed microbead product**

A person must not, in the course of conducting a business or undertaking, supply a prescribed microbead product.

Penalty: a fine of \$5 000.

**17D. Offence in r. 17C does not apply to supplies before 1 September 2023**

Regulation 17C does not apply to the supply of a prescribed microbead product before 1 September 2023.

**17E. Offence to give false or misleading information about prescribed microbead product**

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



- (a) the composition of a prescribed microbead product; or
- (b) whether or not a product is a prescribed microbead product.

Penalty: a fine of \$5 000.

### **Part 3C — Offences relating to prescribed expanded plastic packaging**

#### **17F. Offence to supply prescribed expanded plastic packaging**

- (1) A person must not, in the course of conducting a business or undertaking, supply prescribed expanded plastic packaging.  
Penalty for this subregulation: a fine of \$5 000.
- (2) Subregulation (1) does not apply to the supply of prescribed expanded plastic packaging if —
  - (a) the packaging is used to protect an item that is designed to be used for medical or scientific purposes; or
  - (b) in the case of moulded packaging — the packaging is used to protect an item that —
    - (i) weighs 45 kg or more; or
    - (ii) has been identified by the manufacturer as being fragile and requiring protective packaging that complies with a standard specified by the manufacturer.
- (3) Subregulation (1) does not apply to the wholesale supply of prescribed expanded plastic packaging if the wholesale supplier believes on reasonable grounds that the person to whom the packaging is supplied by the wholesale supplier, or another person to whom the packaging is subsequently to be supplied, will —
  - (a) use the packaging to protect an item that is designed to be used for medical or scientific purposes; or
  - (b) in the case of moulded packaging — use the packaging to protect an item that —
    - (i) weighs 45 kg or more; or
    - (ii) has been identified by the manufacturer as being fragile and requiring protective packaging that complies with a standard specified by the manufacturer.

**17G. Offence in r. 17F(1) does not apply to certain supplies before 1 September 2023**

Regulation 17F(1) does not apply to the supply before 1 September 2023 of prescribed expanded plastic packaging that is —

- (a) loose-fill or void-fill packaging; or
- (b) packaging for a pre-packaged food or drink product.

**17H. Offence in r. 17F(1) does not apply to certain supplies before 1 July 2025**

Regulation 17F(1) does not apply to the supply before 1 July 2025 of prescribed expanded plastic packaging that is moulded packaging.

**17I. Offence to give false or misleading information about prescribed expanded plastic packaging**

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

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

Penalty: a fine of \$5 000.

**15. Regulation 19 amended**

- (1) In regulation 19 delete the definitions of:  
*offence of supplying prescribed drinking straws*  
*offence of supplying prescribed plastic items*
- (2) In regulation 19 in the definition of *Department's website* delete "Department;" and insert:

Department.

Note: The heading to amended regulation 19 is to read:

**Term used: Department's website**

**16. Regulation 20 amended**

- (1) In regulation 20(1) delete "the offence of supplying prescribed plastic items" and insert:

regulation 7(1)

- (2) In regulation 20(2) delete “the offence of supplying prescribed drinking straws” and insert:

regulation 8(1)

- (3) After regulation 20(2) insert:

- (2A) If the CEO considers that it is reasonably necessary to do so, the CEO may, by notice published on the Department’s website, exempt a person or class of persons from regulation 17 in relation to —
- (a) all supplies of degradable plastic items; or
  - (b) supplies of degradable plastic items of specified kinds, or in specified circumstances, or both.
- (2B) If the CEO considers that it is reasonably necessary to do so, the CEO may, by notice published on the Department’s website, exempt a person or class of persons from regulation 17C in relation to —
- (a) all supplies of prescribed microbead products; or
  - (b) supplies of prescribed microbead products of specified kinds, or in specified circumstances, or both.
- (2C) If the CEO considers that it is reasonably necessary to do so, the CEO may, by notice published on the Department’s website, exempt a person or class of persons from regulation 17F(1) in relation to —
- (a) all supplies of prescribed expanded plastic packaging; or
  - (b) supplies of prescribed expanded plastic packaging of specified kinds, or in specified circumstances, or both.

- (4) In regulation 20(3) and (4) delete “(1) or (2)” and insert:

(1), (2), (2A), (2B) or (2C)

- (5) In regulation 20(5) delete “(1) or (2).” and insert:

(1), (2), (2A), (2B) or (2C).

- (6) Delete regulation 20(6) and insert:

- (6) A period specified in a notice under subregulation (4) must not begin before —
- (a) if the notice relates to an exemption under subregulation (1) or (2) — 1 July 2022; or
  - (b) if the notice relates to an exemption under subregulation (2A), (2B) or (2C) — 1 September 2023.

**17. Regulation 21 amended**

- (1) In regulation 21(1) delete “20(1) or (2)” and insert:

20(1), (2), (2A), (2B) or (2C)

- (2) In regulation 21(2) delete “20(1) or (2),” and insert:

20(1), (2), (2A), (2B) or (2C),

**18. Regulation 22 amended**

- (1) In regulation 22(1) delete “The offence of supplying prescribed plastic items” and insert:

Regulation 7(1)

- (2) In regulation 22(2) delete “The offence of supplying prescribed drinking straws” and insert:

Regulation 8(1)

- (3) After regulation 22(2) insert:

- (3) Regulation 17 does not apply to —
- (a) the supply of a degradable plastic item by a person if an exemption under regulation 20(2A) applies to the person in relation to the supply; or
  - (b) the wholesale supply of a degradable plastic item if the wholesale supplier believes on reasonable grounds that an exemption under regulation 20(2A) applies to any of the following persons in relation to the supply of degradable plastic items of that kind —

- (i) the person to whom the item is supplied by the wholesale supplier;
  - (ii) another person to whom the item is subsequently to be supplied.
- (4) Regulation 17C does not apply to —
  - (a) the supply of a prescribed microbead product by a person if an exemption under regulation 20(2B) applies to the person in relation to the supply; or
  - (b) the wholesale supply of a prescribed microbead product if the wholesale supplier believes on reasonable grounds that an exemption under regulation 20(2B) applies to any of the following persons in relation to the supply of prescribed microbead products of that kind —
    - (i) the person to whom the item is supplied by the wholesale supplier;
    - (ii) another person to whom the item is subsequently to be supplied.
- (5) Regulation 17F(1) does not apply to —
  - (a) the supply of prescribed expanded plastic packaging by a person if an exemption under regulation 20(2C) applies to the person in relation to the supply; or
  - (b) the wholesale supply of prescribed expanded plastic packaging if the wholesale supplier believes on reasonable grounds that an exemption under regulation 20(2C) applies to any of the following persons in relation to the supply of prescribed expanded plastic packaging of that kind —
    - (i) the person to whom the item is supplied by the wholesale supplier;
    - (ii) another person to whom the item is subsequently to be supplied.

### **Part 3 — *Environmental Protection Regulations 1987* amended**

#### **19. Regulations amended**

This Part amends the *Environmental Protection Regulations 1987*.

**20. Schedule 6 amended**

In Schedule 6 delete:

*Environmental Protection  
(Prohibited Plastics and  
Balloons) Regulations 2018*

1.	regulation 4	250	500
2.	regulation 5	250	500
3.	regulation 7(1)	250	500
4.	regulation 8(1)	250	500
5.	regulation 16	250	500
6.	regulation 18(1)	250	500
7.	regulation 18(2)	250	500

and insert:

*Environmental Protection  
(Prohibited Plastics and  
Balloons) Regulations 2018*

1.	regulation 4	250	500
2.	regulation 5	250	500
3.	regulation 7(1)	250	500
4.	regulation 8(1)	250	500
5.	regulation 16	250	500
6.	regulation 17	250	500
7.	regulation 17B	250	500
8.	regulation 17C	250	500
9.	regulation 17E	250	500
10.	regulation 17F(1)	250	500
11.	regulation 17I	250	500
12.	regulation 18(1)	250	500
13.	regulation 18(2)	250	500

N. HAGLEY, Clerk of the Executive Council.

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