



Western Australia

Environmental Protection Act 1986

Environmental Protection (Prohibited Plastics) Regulations 2018

Environmental Protection (Prohibited Plastics) Regulations 2018

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Defined terms

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 consisting of a polymer, to which additives or other substances may have been added, which can function as a main structural component of final products; and
- (b) includes expanded polystyrene; but
- (c) does not include a material consisting of natural polymers that have not been chemically modified;

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; SL 2022/64 r. 7.]

r. 3A

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;
 - (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 2022 Pt. 3*

Before 1 July 2022, a reference in regulation 5 to a prescribed plastic bag is 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 2022 Part 3* comes into operation.

[Regulation 6 inserted: SL 2022/64 r. 8.]

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 2022 Pt. 4*

Before 1 July 2022, a reference in regulation 7 to a prescribed plastic item is 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 2022 Part 4* comes into operation.

[Regulation 8 inserted: SL 2022/64 r. 9.]

[9-17. Have not come into operation².]

[Part 4 (r. 18) has not come into operation².]

Part 5 — Exemptions

[Heading inserted: SL 2022/64 r. 10.]

19. Terms used

In this Part —

Department's website means a website maintained by or on behalf of the Department;

offence of supplying prescribed drinking straws means regulation 8(1), as in force on and after the coming into operation on 1 July 2022 of the *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2022* Part 3;

offence of supplying prescribed plastic items means regulation 7(1), as in force on and after the coming into operation on 1 July 2022 of the *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2022* Part 3.

[Regulation 19 inserted: SL 2022/64 r. 10.]

20. CEO may grant exemption

- (1) 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 the offence of supplying prescribed plastic items in relation to —
 - (a) all supplies of prescribed plastic items; or
 - (b) supplies of prescribed plastic items of specified kinds, or in specified circumstances, or both.
- (2) 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 the offence of supplying prescribed drinking straws in relation to —
 - (a) all supplies of prescribed drinking straws; or

- (b) supplies of prescribed drinking straws of specified kinds, or in specified circumstances, or both.
- (3) The CEO may grant an exemption under subregulation (1) or (2) subject to conditions specified in the notice.
- (4) If the CEO grants an exemption under subregulation (1) or (2) the CEO must specify in the notice the period for which the exemption applies.
- (5) The CEO may, by notice published on the Department's website, revoke or vary an exemption granted under subregulation (1) or (2).
- (6) A period specified in a notice under subregulation (4) must not begin before 1 July 2022.

[Regulation 20 inserted: SL 2022/64 r. 10.]

21. Application for exemption

- (1) An exemption under regulation 20(1) or (2) may be granted on application or on the CEO's own initiative.
- (2) Before determining an application for an exemption under regulation 20(1) or (2), the CEO may require the applicant to provide any further information the CEO requires in any particular case.

[Regulation 21 inserted: SL 2022/64 r. 10.]

22. Effect of exemption

- (1) The offence of supplying prescribed plastic items does not apply to —
 - (a) the supply of a prescribed plastic item by a person if an exemption under regulation 20(1) applies to the person in relation to the supply; or
 - (b) the wholesale supply of a prescribed plastic item if the wholesale supplier believes on reasonable grounds that an exemption under regulation 20(1) applies to any of

the following persons in relation to the supply of prescribed 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.
- (2) The offence of supplying prescribed drinking straws does not apply to —
- (a) the supply of a prescribed drinking straw by a person if an exemption under regulation 20(2) applies to the person in relation to the supply; or
 - (b) the wholesale supply of a prescribed drinking straw if the wholesale supplier believes on reasonable grounds that an exemption under regulation 20(2) applies to any of the following persons in relation to the supply of prescribed drinking straws of that kind —
 - (i) the person to whom the straw is supplied by the wholesale supplier;
 - (ii) another person to whom the straw is subsequently to be supplied.

[Regulation 22 inserted: SL 2022/64 r. 10.]

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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> ¹	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> ³	SL 2021/215 17 Dec 2021	1 Jan 2022 (see r. 2(b));
<i>Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2022 Pt. 2</i>	SL 2022/64 3 Jun 2022	4 Jun 2022 (see r. 2(d))

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 2022 Pt. 3 Div. 1 and Pt. 4</i>	SL 2022/64 3 Jun 2022	Pt. 3 Div. 1: 1 Jul 2022 (see r. 2(b)); Pt. 4: 1 Oct 2022 (see r. 2(c))

Other notes

- ¹ Now known as the *Environmental Protection (Prohibited Plastics) Regulations 2018*; citation changed (see note under r. 1).
- ² Regulations 9-17 and Part 4 (r. 18) will be inserted by the *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2022 Pt. 3 Div. 1* (SL 2022/64) on 1 July 2022.

³ The *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2021* Pt. 3 Div. 1 and Pt. 4 (SL 2021/215) were deleted before those provisions could come into operation (see the *Environmental Protection Regulations Amendment (Prohibited Plastics and Balloons) Regulations 2022* r. 5 (SL 2022/64)).

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
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
Department's website	19
disposable plastic item	3
food container	3
medical care provider	3
offence of supplying prescribed drinking straws	19
offence of supplying prescribed plastic items	19
plastic	3
prescribed drinking straw	3
prescribed plastic bag	3
prescribed plastic item	3, 3A(1), (2) and (3)
retailer	3
supply	3