

## Authorised Version

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

S.R. No. 85/2022

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STATUTORY RULES 2022

S.R. No. 85/2022

*Environment Protection Act 2017*

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

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, makes the following Regulations:

Dated: 20 September 2022

Responsible Minister:

LILY D'AMBROSIO

Minister for Environment and Climate Action

ALEXANDRA DEBELJAKOVIC

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 order* 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) Alpine Resorts Victoria established under section 14 of the **Alpine Resorts (Management) Act 1997**;

***existing plastic item*** means a plastic item that was manufactured before 1 February 2023 to be used for the same purpose on multiple occasions;

***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;

*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;

*mental health service provider or premises or correctional, 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 service provider within the meaning of the **Mental Health Act 2014**;
- (d) prescribed premises within the meaning of section 213 of the **Mental Health Act 2014**;
- (e) a police gaol within the meaning of the **Corrections Act 1986**;

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

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

***reusable***, in relation to a plastic item, means an 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.

**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 made 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 1 January 2026, integrated items;
  - (b) before 1 November 2024, paper or cardboard plates lined with any plastic;
  - (c) cotton bud sticks used or intended to be used for testing carried out for scientific, medical, forensic or law enforcement purposes;
  - (d) cutlery used or intended to be used by a mental health service provider or premises or correctional, police or youth justice facility for the purposes of preventing any physical harm or injury.



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

- (1) 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, other than in the circumstances specified in subregulation (2).

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 subregulation (1)—see regulation 169 and Schedule 10.

- (2) A person does not contravene subregulation (1) if the person, on request, sells, supplies, distributes or provides a single-use plastic drinking straw to a person or entity that the person selling, supplying, distributing or providing the straw reasonably believes is a designated person or a person or entity acting on behalf of a designated person.

**134D Provision and sale of existing plastic items**

Regulation 134C does not apply to—

- (a) the provision of an existing plastic item by a person conducting a business or an undertaking if the person conducting the business or undertaking purchased that item before 1 February 2023; or

(b) the sale of an existing plastic item by a person engaging in the business of a registered second-hand dealer or endorsed pawnbroker within the meaning of the **Second-Hand Dealers and Pawnbrokers Act 1989**.

**134E Sale, supply, distribution or provision of single-use plastic drinking straws for use by designated persons**

- (1) A person conducting a business or an undertaking who sells, supplies, distributes or provides single-use plastic drinking straws to a person or entity that the person reasonably believes is a designated person or a person or entity acting on behalf of a designated person is not required to verify that the person or entity to which the straw is sold, supplied, distributed or provided is a designated person or a person or entity acting on behalf of a designated person.
- (2) If a person conducting a business or an undertaking sells, supplies, distributes or provides single-use plastic drinking straws for the purposes of sale, supply, distribution or provision to designated persons, that person must ensure those single-use plastic drinking straws are not accessible to members of the public except with the assistance of the person or the person's employee or agent.

**134F 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(1)	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.

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### Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2022 is \$184.92. The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.