

Plastic Shopping Bags Ban Act 2013

An Act to prevent, so as to minimise environmental pollution, the provision by retailers of certain plastic bags, and for related purposes

[Royal Assent 20 June 2013]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Plastic Shopping Bags Ban Act 2013*.

2. Commencement

(1) Sections 4 and 5 commence on 1 November 2013.

(2) The remaining provisions of this Act commence on the day on which this Act receives the Royal Assent.

3. Interpretation

In this Act, unless the contrary intention appears –

barrier bag means a bag used to carry unpackaged perishable food, including, but not limited to including, fruit, vegetables, meat and fish;

biodegradable bag means a bag comprised of material of a type that has been assessed in accordance with the relevant standard and can, in accordance with the relevant standard, be designated as compostable;

plastic shopping bag means a bag, with handles, that is –

(a) made, in whole or in part, of polyethylene with a thickness of less than 35 microns; or

(b) a bag of a type prescribed by regulations to be a plastic shopping bag –

but does not include –

(c) a biodegradable bag; or

(d) a plastic bag that is an integral part of the packaging in which goods are sealed before sale; or

(e) a barrier bag; or

(f) a bag of a type prescribed by regulations to not be a plastic shopping bag;

relevant standard means Australian Standard AS 4736-2006 Biodegradable plastics – Biodegradable plastics suitable for composting and other microbial treatment, as in force from time

to time, published by Standards Australia, or, if another standard published by Standards Australia replaces that standard, that other standard;

retailer means a person who sells goods in trade or commerce.

4. Plastic shopping bags not to be provided, &c.

(1) A retailer must not provide to a person a plastic shopping bag for the purpose of enabling goods sold, or to be sold, by the retailer, to be carried from the retailer's premises.

Penalty:

In the case of –

- (a) a body corporate, a fine not exceeding 50 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

(2) A retailer must not give to a person information, about the composition of a plastic shopping bag, that the retailer knows, or ought reasonably be expected to know, is false or misleading.

Penalty:

In the case of –

- (a) a body corporate, a fine not exceeding 100 penalty units; or
- (b) an individual, a fine not exceeding 50 penalty units.

5. Director may require proof of plastic bag composition to be provided

(1) The Director, by notice in writing to a retailer, may require the retailer to provide to the Director, within a period specified in the notice, evidence, of the kind specified in the notice, as to whether a bag that is, or that was, on the retailer's premises is a biodegradable bag.

(2) The period specified in a notice under subsection (1) to a retailer is not to be less than 30 days from the day on which the notice is issued to the retailer.

(3) A retailer to whom a notice is issued under subsection (1) must, within the period specified in the notice, provide evidence, of the kind specified in the notice, as to whether a bag to which the notice relates is a biodegradable bag.

Penalty:

In the case of –

- (a) a body corporate, a fine not exceeding 50 penalty units; or
- (b) an individual, a fine not exceeding 20 penalty units.

6. Act to be read together with *Environmental Management and Pollution Control Act 1994*

(1) This Act and the *Environmental Management and Pollution Control Act 1994* are to be read together as if the 2 Acts constituted a single Act.

(2) Without derogating from subsection (1) –

(a) words and expressions used in this Act that are defined in the *Environmental Management and Pollution Control Act 1994* and not in this Act have, unless the contrary intention appears, the same respective meanings; and

(b) a reference to *this Act* in the *Environmental Management and Pollution Control Act 1994* (including, for the avoidance of doubt, in section 72 of that Act) extends, unless the contrary intention appears, to this Act; and

(c) a reference to *the regulations* in the *Environmental Management and Pollution Control Act 1994* (including, for the avoidance of doubt, in section 72 of that Act) extends, unless the contrary intention appears, to regulations made under this Act; and

(d) authorized officers may exercise their powers under the *Environmental Management and Pollution Control Act 1994* for the purposes of the administration and enforcement of this Act.

(3) In the event of an inconsistency between this Act and the *Environmental Management and Pollution Control Act 1994*, the provisions of this Act prevail.

7. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

(3) The regulations may –

(a) provide that a contravention of any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units.

(4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Director.

(5) The regulations may adopt, either wholly or in part and with or without modification, and either specifically or by reference, any of the standards of Standards Australia, whether the standards are published or issued before or after the commencement of all of the provisions of this Act.

(6) A reference in subsection (5) to standards includes a reference to an amendment of those standards, whether the amendment is published or issued before or after the commencement of all of the provisions of this Act.

8. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned to the Minister for Environment, Parks and Heritage;
and

(b) the department responsible to that Minister in relation to the administration of this Act is the Department of Primary Industries, Parks, Water and Environment.

Table Of Amendments

Act	Number and year	Date of commencement
Plastic Shopping Bags Ban Act 2013	No. 14 of 2013	20.6.2013
		1.11.2013