



New South Wales

# Plastic Reduction and Circular Economy Bill 2021

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows—

- (a) to prohibit the supply into and within the State of certain plastic items,
- (b) to specify design standards for certain items,
- (c) to establish a product stewardship framework for brand owners of certain products,
- (d) to create various offences relating to the above matters.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Clause 3** sets out the objects of the proposed Act.

**Clause 4** gives effect to the Dictionary in Schedule 4, which contains definitions of words and expressions used in the proposed Act.

**Clause 5** provides for the application of the precautionary principle.

**Clause 6** provides that the proposed Act has extraterritorial application in certain circumstances.

## Part 2 Prohibited items

**Clause 7** defines a *prohibited plastic item* as a plastic item that is unnecessary or, for environmental, human health or economic reasons, including reasons relating to waste management or resource management, problematic. A prohibited plastic item must also be prescribed by the regulations or specified in Schedule 1, Part 1.

**Clause 8** enables the regulations to prescribe design standards for an item for environmental, human health or economic reasons.

**Clause 9** makes it an offence for a person to, while carrying on a business, supply a prohibited plastic item or an item that does not comply with an applicable design standard. The offence does not apply to the supply of the item outside the State.

## Part 3 Product stewardship requirements and targets

**Clause 10** contains definitions of words and expressions used in the Part.

**Clause 11** contains a definition of *brand owner* and regulation-making powers relating to brand owners.

**Clause 12** contains a definition of *supply* for the purposes of the Part and section 6.

**Clause 13** enables the regulations to prescribe product stewardship requirements and specify targets for the stewardship of the life cycle of a product, or part of a product, prescribed by the regulations (a *regulated product*), including the development, design, creation, production, assembly, supply, use or re-use, recovery, recycling or disposal of the regulated product.

**Clause 14** enables the Minister to set product stewardship targets for regulated products by order published in the Gazette.

**Clause 15** makes it an offence for the brand owner of a regulated product to fail to comply with a product stewardship requirement or target for the product.

**Clause 16** sets out record keeping requirements for brand owners in relation to regulated products. It is an offence for a brand owner to fail to comply with the requirements or a direction issued by the Environment Protection Authority (the *regulator*).

**Clause 17** sets out reporting requirements for brand owners in relation to regulated products. It is an offence for a brand owner to fail to provide a report to the regulator within 3 months of the end of the financial year.

**Clause 18** enables the regulator to publish certain information on the regulator's website.

**Clause 19** makes it an offence for the brand owner of a regulated product to fail to prepare and submit an action plan, which sets out how the brand owner intends to comply with the Part, including indirect environmental actions.

**Clause 20** enables the regulator to approve an action plan or direct the brand owner to amend or resubmit the action plan.

**Clause 21** makes it an offence for a brand owner to fail to hold an action plan approved by the regulator before a regulated product is supplied, other than outside the State.

**Clause 22** sets out actions that may be taken by the regulator with notice to the brand owner of a regulated product. It is an offence for the brand owner of a regulated product to fail to comply with a direction given by the regulator.

**Clause 23** enables the brand owner of a regulated product to apply to the regulator for an internal review of certain decisions made by the regulator.

## Part 4 Financial assurances

**Part 4** enables the regulator to provide, by imposing conditions on approved action plans, financial assurances to secure or guarantee funding for or towards the carrying out of actions required to meet product stewardship requirements or targets.

## **Part 5 Enforcement**

**Part 5** enables the regulator to issue notices to the supplier of a prohibited item or to the occupier of premises from which an authorised officer reasonably suspects a prohibited item has been, is being or is likely to be supplied. It is an offence for a person to fail to comply with a notice issued under the Part.

If a person fails to comply with a notice, the regulator may take action to cause the notice to be complied with, including entering premises at a reasonable time. It is an offence for a person to wilfully delay or obstruct the regulator or an authorised person from taking the action.

## **Part 6 General offences**

**Part 6** contains the following provisions—

- (a) a provision that doubles the maximum penalties for certain offences if committed by a manufacturer, producer, wholesaler or distributor,
- (b) an offence for a person who aids, abets, counsels or procures another person to commit an offence or attempts or conspires to commit an offence,
- (c) a provision relating to evidence of the state of mind of a corporation,
- (d) offences for providing false or misleading information in a material particular.

## **Part 7 Criminal and other proceedings**

**Part 7** contains provisions relating to the time within which proceedings may be commenced, who may institute proceedings, proof of certain appointments and certificate evidence of certain matters.

## **Part 8 Appeals**

**Part 8** contains provisions relating to appeals against compliance notices, financial assurance conditions and the determination of appeals.

## **Part 9 Miscellaneous**

**Part 9** contains provisions relating to service of notices, the granting of exemptions by the regulator, the Minister's power to delegate functions, protection from personal liability for certain persons, fees, the keeping of a public register by the regulator and consultation requirements for the making of certain regulations under the proposed Act.

**Clause 68** enables the Governor to make regulations under the Act.

## **Schedule 1 Prohibited items and design standards**

**Schedule 1, Part 1** specifies certain plastic items as prohibited plastic items.

**Schedule 1, Part 2** sets out a design standard.

## **Schedule 2 Savings, transitional and other provisions**

**Schedule 2** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

## **Schedule 3 Amendment of other legislation**

**Schedule 3** amends the Acts specified in the Schedule.