



New South Wales

Plastic Shopping Bags Prohibition Bill 2016

Explanatory note

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

Overview of Bill

The object of this Bill is to prohibit the retail supply of certain plastic shopping bags so as to:

- (a) minimise the number of plastic shopping bags entering waterways and the marine environment and so reduce harm to marine animals, and
- (b) reduce the consumption of plastic products, and
- (c) encourage more sustainable packaging solutions using reusable and biodegradable alternatives to plastic, and
- (d) support the community's aspiration for improving environmental sustainability, and
- (e) reduce the visual impact of plastic shopping bag litter.

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 3 months after the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act.

Clause 4 specifies the object of the proposed Act (which is the same as that of this Bill).

Part 2 Prohibition on certain plastic shopping bags

Clause 5 defines a *single-use plastic shopping bag* as a bag with handles, the body of which comprises (in whole or in part) polyethylene with a thickness of less than 35 microns, or a bag prescribed by the regulations, and also specifies that certain bags are not single-use plastic shopping bags.

Clause 6 requires retailers, during a phase-out period before the prescribed prohibition date, to make alternative shopping bags available to customers who request them as an alternative to single-use plastic shopping bags and to display a notice about the availability of those alternative shopping bags.

Clause 7 prohibits a retailer from providing single-use plastic shopping bags to customers after the prescribed prohibition date.

Clause 8 provides that the regulations may apply the proposed section to certain plastic bags (other than single-use plastic shopping bags) and prohibits a retailer from providing such a plastic bag.

Clause 9 prohibits a retailer from making false or misleading representations about the composition of plastic bags and prohibits a manufacturer or distributor from knowingly or recklessly falsely representing that a single-use plastic shopping bag or other prohibited plastic bag is not such a bag.

Part 3 Miscellaneous

Clause 10 provides that the regulations can create exemptions from the proposed Act.

Clause 11 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

Schedule 1 amends the *Protection of the Environment Operations Act 1997* to extend the Chapters about investigations and criminal proceedings to matters arising under the proposed Act or the regulations made under it.



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Contents

	Page
Part 1 Preliminary	
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Object of Act	2
Part 2 Prohibition on certain plastic shopping bags	
5 Meaning of “single-use plastic shopping bag”	3
6 Retailers must make alternative shopping bags available during phase-out period	3
7 Retailer must not provide single-use plastic shopping bags	3
8 Retailer not to provide other prohibited plastic bags	4
9 False or misleading representations about plastic bags	4
Part 3 Miscellaneous	
10 Exemptions	5
11 Regulations	5
Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156	6

The Legislature of New South Wales enacts:	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Plastic Shopping Bags Prohibition Act 2016</i> .	4
2 Commencement	5
This Act commences on the day that is 3 months after the date of assent to this Act.	6
3 Definitions	7
(1) In this Act:	8
AS 4736—2006 means AS 4736—2006, <i>Biodegradable plastics—Biodegradable plastics suitable for composting and other microbial treatment</i> (as in force from time to time).	9 10 11
barrier bag means a plastic bag used to carry unpacked perishable food, including, but not limited to, fruit, vegetables, meat or fish.	12 13
biodegradable plastic bag means a plastic bag comprised of material of a type that:	14
(a) has been assessed and tested in accordance with AS 4736—2006, and	15
(b) can, in accordance with that standard, be designated as compostable.	16
prohibition date means the day that is 1 year after the date of assent to this Act.	17
retailer means a person who sells goods in trade or commerce.	18
single-use plastic shopping bag —see section 5.	19
(2) Notes included in this Act do not form part of this Act.	20
Note. The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	21 22
4 Object of Act	23
The object of this Act is to prohibit the retail supply of certain plastic shopping bags so as to:	24 25
(a) minimise the number of plastic shopping bags entering waterways and the marine environment and so reduce harm to marine animals, and	26 27
(b) reduce the consumption of plastic products, and	28
(c) encourage more sustainable packaging solutions using reusable and biodegradable alternatives to plastic, and	29 30
(d) support the community’s aspiration for improving environmental sustainability, and	31 32
(e) reduce the visual impact of plastic shopping bag litter.	33

Part 2	Prohibition on certain plastic shopping bags	1
5	Meaning of “single-use plastic shopping bag”	2
(1)	In this Part, <i>single-use plastic shopping bag</i> means a plastic bag that has handles and the body of which comprises (in whole or in part) polyethylene with a thickness of less than 35 microns or a plastic bag of a kind prescribed by the regulations for the purposes of this definition.	3 4 5 6
(2)	However, each of the following is not a single-use plastic shopping bag:	7
(a)	a biodegradable plastic bag,	8
(b)	a plastic bag that constitutes, or forms an integral part of, the packaging in which goods are sealed prior to sale,	9 10
(c)	a barrier bag,	11
(d)	a plastic bag of a kind prescribed by the regulations as not being a single-use plastic shopping bag.	12 13
6	Retailers must make alternative shopping bags available during phase-out period	14
(1)	A retailer who ordinarily makes single-use plastic shopping bags available to customers for the purpose of enabling goods purchased, or to be purchased, from the retailer to be carried from the retailer’s premises:	15 16 17
(a)	must display a notice at each such retail premises, in accordance with the regulations, about the availability of alternative shopping bags, and	18 19
(b)	must, instead of providing a single-use plastic shopping bag, provide an alternative shopping bag to any customer who requests such a bag.	20 21
	Maximum penalty: 50 penalty units.	22
(2)	This section does not prevent a retailer from charging a customer a fee for the provision of an alternative shopping bag.	23 24
(3)	This section ceases to have effect on the prohibition date.	25
(4)	In this section:	26
	<i>alternative shopping bag</i> means a carry bag that:	27
(a)	is a biodegradable plastic bag, or	28
(b)	is designed to be used on a regular basis over a period of approximately 2 years, or	29 30
(c)	is of a kind prescribed by the regulations for the purposes of this definition.	31
7	Retailer must not provide single-use plastic shopping bags	32
(1)	On and from the prohibition date, a retailer must not provide a single-use plastic shopping bag to a customer for the purposes of enabling goods purchased, or to be purchased, from the retailer to be carried from the retailer’s premises.	33 34 35
	Maximum penalty: 70 penalty units.	36
(2)	It is a defence to a charge for an offence under subsection (1) if the retailer proves that the retailer believed on reasonable grounds that the bag was not a single-use plastic shopping bag.	37 38 39
(3)	This section applies whether or not the customer is charged a fee for the provision of the single-use plastic shopping bag.	40 41

8	Retailer not to provide other prohibited plastic bags	1
(1)	This section applies to any or all of the following plastic bags, if the regulations so provide:	2
		3
(a)	barrier bags that are not biodegradable plastic bags,	4
(b)	bin liners that are not biodegradable plastic bags,	5
(c)	heavier retail bags,	6
(d)	plastic bags used in packaging such as for bread, ice and bait.	7
(2)	On and from the prohibition date, a retailer must not provide a plastic bag to which this section applies to a customer for the purposes of enabling goods purchased, or to be purchased, from the retailer to be carried from the retailer's premises.	8
	Maximum penalty: 50 penalty units.	11
(3)	It is a defence to a charge for an offence under subsection (2) if the retailer proves that the retailer believed on reasonable grounds that the bag was not a plastic bag to which this section applies.	12
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		14
(4)	This section applies whether or not the customer is charged a fee for the provision of the plastic bag.	15
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9	False or misleading representations about plastic bags	17
(1)	On and from the prohibition date, a retailer must not, in the course of retailing, give to a person information about the composition of a plastic bag (including whether or not it is a biodegradable plastic bag) that the retailer knows, or ought reasonably be expected to know, is false or misleading.	18
	Maximum penalty: 70 penalty units.	22
(2)	On and from the prohibition date, a manufacturer or distributor of plastic bags who sells, supplies or otherwise provides single-use plastic shopping bags, or plastic bags to which section 8 applies, to another person must not, before, or in the course of, selling, supplying or providing the bags, represent to the other person that the bags are not such plastic bags:	23
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		27
(a)	knowing that they are single-use plastic shopping bags or plastic bags to which section 8 applies, or	28
		29
(b)	being reckless as to whether they are or are not such bags.	30
	Maximum penalty: 70 penalty units.	31

Part 3	Miscellaneous	1
10	Exemptions	2
	The regulations may, either unconditionally or subject to conditions:	3
	(a) exempt any specified person or class of persons from the operation of this Act or of any specified provision of this Act, or	4 5
	(b) provide that any plastic bag of a specified kind is not a bag to which this Act or any specified provision of this Act applies.	6 7
11	Regulations	8
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	9 10 11 12

Schedule 1	Amendment of Protection of the Environment Operations Act 1997 No 156	1 2
[1]	Section 186 Extension of Chapter to other environment protection legislation	3
	Insert after section 186 (a):	4
	(a1) <i>Plastic Shopping Bags Prohibition Act 2016</i> and the regulations under that Act,	5 6
[2]	Section 213 Application of Chapter	7
	Insert after section 213 (2) (c):	8
	(d) <i>Plastic Shopping Bags Prohibition Act 2016</i> and the regulations under that Act.	9 10