



New South Wales

# Product Lifecycle Responsibility Bill 2025

## 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 establish a product stewardship framework for brand owners of certain products,
- (b) 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.

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

**Clause 4** gives effect to the dictionary in Schedule 3, which contains definitions of words and expressions used in the proposed Act.

**Clause 5** provides that the proposed Act has extraterritorial application in certain circumstances.

### Part 2 Product stewardship schemes

#### Division 1 Preliminary

**Clause 6** contains a definition of *brand owner* for the proposed Act.

**Clause 7** contains a definition of *supply* for the proposed part.

## **Division 2 Product stewardship schemes**

**Clause 8** enables regulations to establish schemes for the stewardship of the lifecycle of regulated products (a *product stewardship scheme*). The regulations may prescribe product stewardship requirements and specify targets for the stewardship of the lifecycle 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, collection, recovery, recycling or disposal of the regulated product.

**Clause 9** enables the Minister to set product stewardship targets for regulated products by order published in the Gazette.

**Clause 10** 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 11** sets out record keeping requirements for brand owners and product stewardship organisations 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 12** sets out reporting requirements for brand owners in relation to regulated products. A brand owner must, before first supplying a regulated product, notify the regulator or, if there is a product stewardship scheme for the regulated product, the product stewardship organisation, of the proposed supply. It is an offence for a brand owner to fail to give a report to the regulator within 3 months of the end of the financial year.

**Clause 13** sets out reporting requirements for product stewardship organisations. It is an offence for a product stewardship organisation to fail to give an annual or quarterly report to the regulator within 3 months of the end of the financial year or quarter.

**Clause 14** enables the regulator and product stewardship organisations to publish certain information.

## **Division 3 Action plans**

**Clause 15** makes it an offence for the brand owner of a regulated product to fail, if required by the regulations, to prepare and lodge an action plan, which sets out how the brand owner intends to comply with the proposed part, including indirect environmental actions.

**Clause 16** makes it an offence for a product stewardship organisation to fail, if required by the regulations, to prepare and lodge an action plan, which sets out how the product stewardship organisation intends to comply with the proposed part, including indirect environmental actions.

**Clause 17** contains provisions about the making of actions plans.

**Clause 18** enables the regulator to approve an action plan or direct the brand owner or product stewardship organisation to amend and relodge the action plan.

**Clause 19** makes it an offence for a brand owner to supply the regulated product unless the approved action plan is in effect and the supply is in accordance with the approved action plan.

**Clause 20** sets out actions that may be taken by the regulator with notice to the brand owner of a regulated product or a product stewardship organisation. It is an offence for the brand owner of a regulated product or a product stewardship organisation to fail to comply with a direction given by the regulator.

**Clause 21** provides for the internal review of certain decisions made by the regulator.

## **Division 4 Product stewardship organisations**

**Clause 22** enables the regulator to enter into a written agreement (a *stewardship administration agreement*) with a person (a *product stewardship organisation*) in connection with the

management and administration of a product stewardship scheme for one or more regulated products.

**Clause 23** provides that a stewardship administration agreement must include provisions requiring the product stewardship organisation to enter into and give effect to arrangements with brand owners (a *product stewardship arrangement*) requiring the brand owners to pay to the product stewardship organisation fees for the cost of the management, administration and operation of the scheme.

**Clause 24** provides that the provisions of a stewardship administration agreement may be enforced by penalty provisions or in another way that the agreement may provide. A product stewardship organisation that contravenes a provision of a stewardship administration agreement that is enforceable by a penalty provision is liable to pay, as a debt due to the State, an amount determined in accordance with the agreement as the penalty for the contravention.

**Clause 25** deals with the monitoring and enforcement of compliance with product stewardship arrangements.

**Clause 26** deals with the variation and termination of stewardship administration agreements.

**Clause 27** provides that the regulator may conduct a performance audit of the activities of product stewardship organisations in relation to the performance of obligations under a stewardship administration agreement.

### **Part 3 Financial assurances**

**Part 3** 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 4 General offences**

**Part 4** contains the following provisions—

- (a) 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,
- (b) a provision relating to evidence of the state of mind of a corporation,
- (c) offences for giving false or misleading information in a material particular.

### **Part 5 Criminal and other proceedings**

**Part 5** 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 6 Appeals**

**Part 6** contains provisions relating to appeals against financial assurance conditions and the determination of appeals.

### **Part 7 Miscellaneous**

**Part 7** contains provisions relating to the following—

- (a) the service of notices,
- (b) the granting of exemptions by the regulator,
- (c) the Minister's power to delegate functions,
- (d) protection from personal liability for certain persons,
- (e) fees,

- (f) the keeping of a public register by the regulator,
- (g) consultation requirements for the making of certain regulations under the proposed Act,
- (h) the making of regulations,
- (i) the review of the proposed Act.

### **Schedule 1 Savings, transitional and other provisions**

**Schedule 1** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

### **Schedule 2 Amendment of other legislation**

**Schedule 2** amends the Acts specified in the schedule.

### **Schedule 3 Dictionary**

**Schedule 3** defines certain words and expressions for the proposed Act.



New South Wales

# Product Lifecycle Responsibility Bill 2025

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*This PUBLIC BILL, originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council*

*Clerk of the Parliaments*



New South Wales

## **Product Lifecycle Responsibility Bill 2025**

No. \_\_\_\_\_, 2025

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### **A Bill for**

An Act to establish a product stewardship framework for brand owners of certain products; and for related purposes.

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*The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with/without amendment.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*

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<b>The Legislature of New South Wales enacts—</b>	1
<b>Part 1 Preliminary</b>	2
<b>1 Name of Act</b>	3
This Act is the <i>Product Lifecycle Responsibility Act 2025</i> .	4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6
<b>3 Objects of Act</b>	7
(1) The objects of this Act are as follows—	8
(a) to minimise the impact that products have on human health and the environment, throughout the lifecycle of the products,	9 10
(b) to ensure that persons who supply a product are responsible for minimising the potential harm of what is supplied,	11 12
(c) to support material circularity through design, production, use, re-use, collection, recycling, reprocessing and end-of-life management,	13 14
(d) to promote and support the principles of a circular economy.	15
(2) In this section—	16
<b><i>principles of a circular economy</i></b> include the following principles—	17
(a) valuing resources and minimising the use of virgin materials by ensuring materials continue to circulate in the economy in a way that—	18 19
(i) minimises the risk of harm to human health and the environment, and	20
(ii) considers the waste hierarchy,	21
(b) keeping resources in use and designing out waste, pollution and resource inefficiency, including through innovative systems, technologies and business models,	22 23 24
(c) ecologically sustainable and regenerative management of resources and systems.	25 26
<b><i>waste hierarchy</i></b> is a reference to the hierarchy set out in the <i>Waste Avoidance and Resource Recovery Act 2001</i> , section 3(b).	27 28
<b>4 Definitions</b>	29
(1) The dictionary in Schedule 3 defines words and expressions used in this Act.	30
<b>Note—</b> The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	31 32
(2) A person supplies a product whether or not—	33
(a) a fee is charged for the supply of the product, or	34
(b) the supply of the product is incidental to, or forms part of, the supply of another thing.	35 36
<b>5 Extraterritorial application of Act</b>	37
(1) If there is an extraterritorial impact, this Act and the regulations apply to—	38
(a) a person, whether or not the person is outside the State, and	39
(b) premises, whether or not the premises are outside the State, and	40
(c) a supplier, whether or not—	41

- (i) the supplier is carrying on a business outside the State, or 1
  - (ii) the supplier is a party to a contract made outside the State. 2
- (2) In this section— 3
  - extraterritorial impact*** means a matter or thing, whether it occurs or is located 4  
outside the State, that— 5
    - (a) affects, or is likely to affect, the environment of the State, or 6
    - (b) relates to the supply, or the likely supply, into or within the State of a regulated 7  
product, or 8
    - (c) relates to a non-compliance matter. 9
  - non-compliance matter*** means a matter or thing that is, or is likely to be, an offence 10  
under this Act or the regulations. 11

## Part 2 Product stewardship schemes

### Division 1 Preliminary

#### 6 Meaning of “brand owner”

- (1) In this Act, the *brand owner* of a product—
  - (a) is the owner of the product name under which the product is supplied in the State, and
  - (b) includes a person prescribed by the regulations.
- (2) The regulations may prescribe the circumstances in which the following persons are taken to be brand owners in relation to the supply of a particular product—
  - (a) a person who is a licensee of a product name under which the product is supplied in the State,
  - (b) a person who is a franchisee under a business arrangement that allows the person to supply the product in the State,
  - (c) a person who first supplies the product in Australia.
- (3) Unless otherwise specified by the regulations, the brand owner of a product is taken to be the brand owner of the packaging material of the product.
- (4) The regulations may make provision for or about the following—
  - (a) whether the brand owner of a product is or is not the brand owner of the packaging material of the product, including in specified circumstances,
  - (b) the circumstances in which a person is or is not taken to be the brand owner of a product,
  - (c) the granting of exemptions from this part—
    - (i) with or without conditions, and
    - (ii) generally or in specified circumstances or for a specified product.
- (5) In this section—

*product name* includes a trade mark, brand name or trade name, whether or not registered in this or another jurisdiction.

#### 7 Meaning of “supply”

- In this part and section 6—
- supply* also includes the following for a scheme—
- (a) make the scheme available or provide the scheme to a person,
  - (b) an offer to provide the scheme, including advertising the scheme or making other representations with the intention of providing the scheme.

### Division 2 Product stewardship schemes

#### 8 Product stewardship schemes

- (1) The regulations may establish a scheme for the stewardship of the lifecycle of a regulated product (a *product stewardship scheme*).
- (2) The regulations for the scheme may—
  - (a) prescribe a requirement (a *product stewardship requirement*) for the stewardship of the lifecycle of a regulated product, including the development, design, creation, production, assembly, supply, use or re-use, collection, recovery, recycling or disposal of the regulated product, and

- (b) specify a target about a product stewardship requirement, including a target expressed as a percentage. 1  
2
- (3) Without limiting subsection (2), the regulations may prescribe a product stewardship requirement about the following— 3  
4
- (a) the use or re-use of recycled materials or other materials that will minimise the environmental or resource impact of a product’s creation, 5  
6
- (b) the membership of, or agreements or other arrangements with, product stewardship organisations, 7  
8
- (c) the traceability of materials, 9
- (d) the ability of a product to be recycled, composted, repaired, processed, re-processed or re-used, 10  
11
- (e) the re-use, re-manufacture, recovery, recycling, take-back, use or disposal of a product or resources from a product, 12  
13
- (f) the safe collection, transport or storage of a product or resources from a product, 14  
15
- (g) the prevention, reduction or recovery of litter, 16
- (h) the prevention or reduction of unlawful waste disposal or unsafe product disposal, 17  
18
- (i) the reduction in material used in a product, 19
- (j) the design of a product, 20
- (k) the labelling or packaging of a product, 21
- (l) the maintenance, sharing, repair, refurbishment or upgrade of a product, 22
- (m) the longevity of a product, 23
- (n) the reduction of the impact, including the potential impact, of a product or the lifecycle of a product on resource management or waste management, including in relation to the following— 24  
25  
26
- (i) virgin materials, 27
- (ii) demand for landfill, 28
- (iii) damage to resource recovery and waste infrastructure, 29
- (iv) the environment, 30
- (v) human health, 31
- (o) access to service points for re-use, collection, recovery, recycling or disposal, including hours of operation and the number or geographical spread of service points, 32  
33  
34
- (p) training, education, advertising and public awareness campaigns about a product. 35  
36
- (4) To avoid doubt, the regulations may apply to a product that contains a regulated product. 37  
38
- Example—** If a battery is a regulated product, regulations under this section may apply to an e-bike with an embedded battery. 39  
40
- (5) The regulations may declare that a product stewardship requirement is a *safety requirement*. 41  
42

## 9 Minister may set product stewardship targets 43

- (1) The Minister may, by order published in the Gazette, set a product stewardship target, including a target expressed as a percentage. 44  
45
- (2) The order takes effect— 46

(a)	on the date on which the order is published, or	1
(b)	if a later date is specified in the order—on the later date.	2
(3)	A target specified in the regulations prevails over a target set by order under this section.	3 4
(4)	The Minister may, by a further order made under this section, vary a target specified in the regulations if the regulations permit the variation of the target.	5 6
<b>10</b>	<b>Offence—failure to comply with product stewardship requirement or target</b>	7
(1)	The brand owner of a regulated product must comply with a product stewardship requirement for the regulated product.	8 9
	Maximum penalty—	10
(a)	for a failure to comply with a safety requirement—	11
(i)	for an individual—2,000 penalty units and, for a continuing offence, a further 200 penalty units for each day the offence continues, or	12 13
(ii)	otherwise—8,000 penalty units and, for a continuing offence, a further 800 penalty units for each day the offence continues, or	14 15
(b)	otherwise—	16
(i)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	17 18
(ii)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	19 20
(2)	It is a defence in proceedings for an offence against this section if the defendant establishes that, at the time of the failure to comply—	21 22
(a)	an approved action plan for the product stewardship requirement applied in relation to the defendant, and	23 24
(b)	the defendant complied with the approved action plan and the conditions, if any, imposed by the regulator on the approved action plan.	25 26
(3)	To the extent that an approved action plan relates to a brand owner’s compliance with a product stewardship requirement, a failure to comply with the plan is evidence of a failure to comply with this section.	27 28 29
(4)	In this section—	30
	<i>product stewardship requirement</i> includes a product stewardship target.	31
<b>11</b>	<b>Record keeping requirements</b>	32
(1)	This section applies to the following ( <i>scheme participants</i> )—	33
(a)	a brand owner,	34
(b)	a product stewardship organisation.	35
(2)	A scheme participant must—	36
(a)	prepare records for each financial year in accordance with this section, and	37
(b)	keep the records for at least 6 years following the financial year to which the records relate, and	38 39
(c)	make the records available for inspection and copying by an authorised officer on request.	40 41
	Maximum penalty—	42
(a)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	43 44

(b)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	1 2
(3)	Records prepared under this section must include the information prescribed by the regulations, if any.	3 4
(4)	The regulator may, by written notice to a scheme participant, direct the scheme participant to, within a specified period—	5 6
(a)	arrange an independent audit of the records to be carried out by an auditor specified by the regulator, and	7 8
(b)	give the auditor’s report to the regulator.	9
(5)	A scheme participant must, within the specified period, comply with a direction given under this section.	10 11
	Maximum penalty—	12
(a)	for an individual—250 penalty units and, for a continuing offence, a further 20 penalty units for each day the offence continues, or	13 14
(b)	otherwise—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues.	15 16
(6)	The regulations may specify information to be included in records by reference to the following—	17 18
(a)	a brand owner,	19
(b)	a regulated product or a substance recovered from a regulated product,	20
(c)	a product stewardship organisation,	21
(d)	an activity,	22
(e)	an industry.	23
<b>12</b>	<b>Reporting requirements—notification of first supply and annual reports by brand owners</b>	24 25
(1)	A brand owner must, before first supplying a regulated product, give notice of the proposed supply to the following—	26 27
(a)	the regulator,	28
(b)	if there is a product stewardship scheme for the regulated product—the product stewardship organisation.	29 30
	Maximum penalty—	31
(a)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	32 33
(b)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	34 35
(2)	A brand owner must give an annual report to the following within 3 months of the end of the financial year—	36 37
(a)	the regulator,	38
(b)	if there is a product stewardship scheme for the regulated product—the product stewardship organisation.	39 40
	Maximum penalty—	41
(a)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	42 43
(b)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	44 45

- (3) The notice and annual report must—
  - (a) be given in the form and way approved by the regulator or product stewardship organisation, and
  - (b) include the information prescribed by the regulations.
- (4) Information given to the regulator under this section may be taken into consideration by the regulator and used for this Act.
- (5) Without limiting subsection (4), the information is admissible in evidence in a prosecution of the brand owner for an offence against this Act or the regulations, whether or not the information may incriminate the brand owner.
- (6) The regulations may prescribe information to be included in an annual report by reference to the following—
  - (a) a brand owner,
  - (b) a regulated product or a substance recovered from a regulated product,
  - (c) a product stewardship organisation,
  - (d) an activity,
  - (e) an industry.

### **13 Reporting requirements—product stewardship organisations**

- (1) A product stewardship organisation must give the following to the regulator—
  - (a) an annual report within 3 months of the end of the financial year,
  - (b) a quarterly report within 3 months of the end of each quarter.Maximum penalty—
  - (a) for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or
  - (b) otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.
- (2) A report must—
  - (a) be given in the form and way approved by the regulator, and
  - (b) include information about the performance of the product stewardship organisation by reference to the performance targets under the stewardship administration agreement, and
  - (c) include other information prescribed by the regulations.
- (3) Information given to the regulator under this section may be taken into consideration by the regulator and used for this Act.
- (4) Without limiting subsection (3), the information is admissible in evidence in a prosecution of the product stewardship organisation for an offence against this Act or the regulations, whether or not the information may incriminate the product stewardship organisation.
- (5) The regulations may prescribe information to be included in a report by reference to the following—
  - (a) a brand owner,
  - (b) a regulated product or a substance recovered from a regulated product,
  - (c) a product stewardship organisation,
  - (d) an activity,
  - (e) an industry.

(6)	A product stewardship organisation must publish the annual report on the product stewardship organisation’s website within 3 months of the end of each financial year.	1 2
(7)	In this section— <i>quarter</i> means the 3-month period beginning 1 July, 1 October, 1 January or 1 April in each financial year.	3 4 5
<b>14</b>	<b>Regulator and product stewardship organisations may publish certain information</b>	6
(1)	The regulator may publish information, including the name of a brand owner and other names by which the brand owner trades, on the regulator’s website if the information relates to—	7 8 9
(a)	information given to the regulator by a brand owner under this part, or	10
(b)	information given to the regulator by a product stewardship organisation under this part, or	11 12
(c)	the brand owner’s compliance or non-compliance with a provision of this part or regulations made under this part, or	13 14
(d)	the brand owner’s performance, from time to time, against product stewardship requirements and product stewardship targets.	15 16
(2)	A product stewardship organisation may publish information, including the name of a brand owner and other names by which the brand owner trades, on the product stewardship organisation’s website if the information relates to—	17 18 19
(a)	information given to the product stewardship organisation by a brand owner under this part, or	20 21
(b)	information given by the regulator to the product stewardship organisation under this part, or	22 23
(c)	the brand owner’s compliance or non-compliance with a provision of this part or regulations made under this part, or	24 25
(d)	the brand owner’s performance, from time to time, against product stewardship requirements and product stewardship targets.	26 27
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<b>15</b>	<b>Requirement to prepare action plan—brand owners</b>	29
	If required by the regulations, the brand owner of a regulated product must—	30
(a)	prepare an action plan, and	31
(b)	lodge the action plan with the regulator.	32
	Maximum penalty—	33
(a)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	34 35
(b)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	36 37
<b>16</b>	<b>Requirement to prepare action plan—product stewardship organisations</b>	38
	If required by the regulations, the product stewardship organisation for a regulated product must—	39 40
(a)	prepare an action plan, and	41
(b)	lodge the action plan with the regulator.	42
	Maximum penalty—	43



(a)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	1 2
(b)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	3 4
<b>17</b>	<b>Making of action plans</b>	5
(1)	An action plan—	6
(a)	must set out how the person who is required to lodge the action plan intends to comply with the provisions of this part for which the action plan is required to be prepared, and	7 8 9
(b)	may include indirect actions intended to offset adverse environmental impacts generally or specifically in connection with the regulated product, and	10 11
(c)	must include the information prescribed by the regulations.	12
(2)	An action plan must be lodged in the form and way approved by the regulator.	13
(3)	The regulator may require the person who lodged the action plan to give further information for the purpose of assessing the action plan.	14 15
(4)	The regulations may specify the following by reference to a brand owner, product stewardship organisation, regulated product, activity or industry—	16 17
(a)	the period within which an action plan must be lodged to the regulator,	18
(b)	whether an action plan is required to be prepared for compliance with the following—	19 20
(i)	product stewardship requirements,	21
(ii)	product stewardship targets,	22
(iii)	record keeping requirements under section 11,	23
(iv)	reporting requirements under sections 12 and 13,	24
(c)	the circumstances in which an action plan is required to be prepared,	25
(d)	the information that must be included in an action plan,	26
(e)	the period within which the action plan must be reviewed.	27
<b>18</b>	<b>Regulator may approve action plans or require action plans to be amended</b>	28
(1)	After receiving an action plan, the regulator may, by written notice to the person who lodged the action plan—	29 30
(a)	approve the action plan (the <i>approved action plan</i> ) with effect from the date specified in the notice, or	31 32
(b)	direct the person who lodged the action plan to—	33
(i)	amend the action plan, and	34
(ii)	relodge the action plan within the period specified in the notice.	35
(2)	An approved action plan is subject to the conditions, if any, specified by the regulator in a notice under this section or section 20.	36 37
(3)	A person who lodged an approved action plan may lodge a draft revised or amended action plan with the regulator for approval under this section.	38 39
<b>19</b>	<b>Requirement to supply in accordance with approved action plan</b>	40
(1)	This section applies if the regulations require an action plan to be prepared for a regulated product.	41 42

(2)	The brand owner of the regulated product must not supply the regulated product unless—	1
		2
(a)	the approved action plan is in effect, and	3
(b)	the supply is in accordance with the approved action plan.	4
	Maximum penalty—	5
(a)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	6
		7
(b)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	8
		9
(3)	This section does not apply to the supply of a regulated product to a location outside of the State.	10
		11
<b>20</b>	<b>Powers of regulator—action plans</b>	12
(1)	The regulator may, by written notice to a person who lodged an action plan with the regulator, do the following—	13
		14
(a)	vary or revoke conditions imposed on an approved action plan, including at the request of the person,	15
		16
(b)	impose further conditions on an approved action plan,	17
(c)	withdraw approval of an approved action plan,	18
(d)	direct the person to do one or more of the following within the period specified in the notice—	19
		20
(i)	give further information in relation to an approved action plan,	21
(ii)	review, update or amend an approved action plan and lodge the revised or amended action plan,	22
		23
(iii)	prepare and lodge an action plan in accordance with section 15 or 16, as the case requires, whether or not the person has an approved action plan,	24
		25
(iv)	arrange an independent audit of an action plan or approved action plan to be carried out by an auditor, including an auditor specified or approved by the regulator,	26
		27
		28
(v)	give the auditor’s report to the regulator.	29
(2)	A person must comply with a direction of the regulator given in accordance with this part.	30
		31
	Maximum penalty for subsection (2)—	32
(a)	for an individual—1,000 penalty units and, for a continuing offence, a further 100 penalty units for each day the offence continues, or	33
		34
(b)	otherwise—4,000 penalty units and, for a continuing offence, a further 400 penalty units for each day the offence continues.	35
		36
<b>21</b>	<b>Review of certain decisions by regulator</b>	37
(1)	A person may, within 14 days of receiving notice of a reviewable decision, apply to the regulator for an internal review of the decision.	38
		39
(2)	An application for internal review must—	40
(a)	be made in writing and state the grounds of the application, and	41
(b)	comply with other requirements, if any, prescribed by the regulations.	42
(3)	An application for internal review does not operate to stay the reviewable decision unless the regulator directs otherwise.	43
		44

- (4) The regulator is not required to conduct a review if a review of the decision has already been conducted under this section. 1  
2
- (5) In determining the application, the regulator may— 3  
(a) confirm the decision, or 4  
(b) vary the decision, or 5  
(c) revoke the decision. 6
- (6) The regulator must give written notice to the applicant of the determination. 7
- (7) A determination to vary or revoke the reviewable decision takes effect on and from the day written notice of the determination is given to the applicant. 8  
9
- (8) In this section— 10  
*reviewable decision* means a decision by the regulator— 11  
(a) to refuse to approve an action plan, or 12  
(b) to require an action plan to be amended and relodged under section 18(1)(b), or 13  
(c) to impose a certain condition on an action plan, or 14  
(d) to vary a condition imposed on an action plan, or 15  
(e) to withdraw approval of an action plan, or 16  
(f) to refuse to vary or revoke a condition imposed on an action plan, or 17  
(g) of a kind prescribed by the regulations. 18

## **Division 4 Product stewardship organisations** 19

### **22 Product stewardship administration agreements** 20

- (1) The regulator may enter into a written agreement (a *stewardship administration agreement*) with a person (a *product stewardship organisation*) in connection with the management and administration of a product stewardship scheme for one or more regulated products. 21  
22  
23  
24
- (2) The regulator may invite applications for stewardship administration agreements in a way the regulator considers appropriate. 25  
26
- (3) An application for a stewardship administration agreement must be accompanied by the fee prescribed by or determined under the regulations, if any. 27  
28
- (4) In determining whether to enter into a stewardship administration agreement, the regulator— 29  
30  
(a) must consider whether the applicant is a fit and proper person to enter into, and fulfil the obligations imposed by, the agreement, and 31  
32  
(b) must consider whether the stewardship administration agreement adequately deals with the following— 33  
34  
(i) governance and organisational matters, including procedures for decision making and dispute resolution, 35  
36  
(ii) financial arrangements and funding to achieve the outcomes of the agreement, 37  
38  
(iii) assessing the adequacy of the environmental, health and safety policies and practices in relation to the activities undertaken under the agreement, 39  
40  
41  
(iv) monitoring and evaluating the performance of the agreement in achieving the outcomes of the agreement, 42  
43  
(v) managing risk in relation to the operation of the agreement, and 44

(c)	may consider other matters the regulator considers relevant.	1
(5)	The term of a stewardship administration agreement must not be more than 7 years.	2
(6)	In this section—	3
	<b>product stewardship requirement</b> includes a product stewardship target.	4
<b>23</b>	<b>Product stewardship arrangements</b>	5
	A stewardship administration agreement must include provisions requiring the product stewardship organisation to enter into and give effect to arrangements with brand owners (a <b>product stewardship arrangement</b> ) requiring the brand owners to pay to the product stewardship organisation fees for the cost of the management, administration and operation of the scheme.	6 7 8 9 10
<b>24</b>	<b>Penalties for contravention</b>	11
(1)	The provisions of a stewardship administration agreement may be enforced by penalty provisions or in another way that the agreement may provide.	12 13
(2)	A product stewardship organisation that contravenes a provision of a stewardship administration agreement that is enforceable by a penalty provision is liable to pay, as a debt due to the EPA, an amount determined in accordance with the agreement as the penalty for the contravention.	14 15 16 17
(3)	This section, and the provisions of stewardship administration agreements authorised by this section, have effect despite another law.	18 19
(4)	In this section—	20
	<b>penalty provision</b> means a provision of a stewardship administration agreement that provides for the payment of an amount of penalty for the contravention of a specified provision of the agreement.	21 22 23
<b>25</b>	<b>Monitoring and enforcement of compliance</b>	24
(1)	A stewardship administration agreement may—	25
	(a) specify the monitoring, reporting and audit requirements to be included in a product stewardship arrangement, and	26 27
	(b) provide for the exercise of powers and other functions under the <i>Protection of the Environment Operations Act 1997</i> , Chapter 7 by the EPA, and authorised officers appointed by the EPA, in connection with the agreement, and	28 29 30
	(c) require a product stewardship arrangement to provide for the exercise of powers and other functions under the chapter by the EPA, and authorised officers appointed by the EPA, in connection with the arrangement, and	31 32 33
	(d) specify any other measures to be taken by the product stewardship organisation to whom the agreement applies to ensure that brand owners comply with a product stewardship arrangement.	34 35 36
(2)	If a stewardship administration agreement provides, or a product stewardship arrangement provides or is required under a stewardship administration agreement to provide, for the exercise of powers and other functions under the <i>Protection of the Environment Operations Act 1997</i> , Chapter 7 in connection with the agreement or arrangement, the chapter extends to the exercise of powers and other functions by the EPA, and by authorised officers appointed by the EPA, for the following purposes—	37 38 39 40 41 42
	(a) determining whether there has been compliance with or a contravention of the agreement or arrangement,	43 44
	(b) obtaining information or records for purposes connected with the monitoring or audit of the activities of parties to the agreement or arrangement in relation	45 46

to the performance of the parties' obligations under the agreement or arrangement.	1 2
(3) The provisions of the <i>Protection of the Environment Operations Act 1997</i> , Chapter 7 apply for the purpose as if the responsibilities and functions of the EPA under this Act included the matters referred to in subsection (2).	3 4 5
(4) This section does not affect the exercise of powers or other functions under the <i>Protection of the Environment Operations Act 1997</i> , Chapter 7 in connection with this Act that are authorised to be exercised without reliance on this section.	6 7 8
<b>26 Variation and termination of agreement</b>	9
(1) A stewardship administration agreement may be varied or terminated by agreement in writing between the regulator and the product stewardship organisation.	10 11
(2) The regulator may, by written notice given to the product stewardship organisation, vary or terminate a stewardship administration agreement without the consent of the product stewardship organisation—	12 13 14
(a) if satisfied that the product stewardship organisation has failed to meet a performance target under the agreement, or	15 16
(b) in other circumstances authorised by the agreement.	17
(3) Without limiting subsection (2), the regulator may vary a stewardship administration agreement without the consent of the product stewardship organisation to provide for a performance target or other matter required by this part or the regulations to be included in the agreement.	18 19 20 21
(4) The product stewardship organisation is not entitled to any compensation as a result of the variation or termination of a stewardship administration agreement under subsection (2)(a) or (3).	22 23 24
(5) A provision of a stewardship administration agreement is void to the extent to which it purports to exclude, limit or modify the operation of this section.	25 26
(6) The regulations may make further provision about the variation or termination of a stewardship administration agreement.	27 28
<b>27 Performance audit</b>	29
(1) The regulator may conduct a performance audit of the activities of product a stewardship organisation in relation to the performance of obligations under a stewardship administration agreement.	30 31 32
(2) At the end of the performance audit, the regulator must prepare a report.	33
(3) If, in the regulator's opinion, a product stewardship organisation is not complying with the stewardship administration agreement, the regulator may make recommendations in the report on appropriate remedial actions to be taken.	34 35 36
(4) The regulations may make further provision about performance audits under this section.	37 38

<b>Part 3</b>	<b>Financial assurances</b>	1
<b>28</b>	<b>Purpose of part</b>	2
(1)	The purpose of this part is 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.	3 4 5
(2)	A financial assurance must not operate as a penalty for a contravention of this Act, the regulations or the conditions of an approved action plan.	6 7
<b>29</b>	<b>Requiring financial assurances</b>	8
(1)	The regulator may, at any time, impose a condition on an approved action plan to require the person who lodged the approved action plan to provide a financial assurance.	9 10 11
(2)	The regulator may require a financial assurance to be provided before it approves an action plan.	12 13
(3)	A financial assurance may be in one or more of the following forms—	14
(a)	a bank guarantee,	15
(b)	a bond,	16
(c)	another form of security the regulator considers appropriate and specifies in the condition.	17 18
(4)	A condition of an action plan may provide for the procedures under which the financial assurance may be called on or used.	19 20
<b>30</b>	<b>Restriction on requiring financial assurance</b>	21
	The regulator must not impose a condition on an action plan requiring a financial assurance to be provided unless satisfied the condition is justified considering the following—	22 23 24
(a)	the degree of risk of environmental harm, harm to human health or waste management impacts associated with the activities to which the product stewardship requirements and targets apply,	25 26 27
(b)	the ongoing financial capacity of the person who lodged the action plan to meet the relevant product stewardship requirements and targets, whether through its action plan or otherwise,	28 29 30
(c)	the environmental record of the person who lodged the action plan, including its past compliance with relevant product stewardship requirements and targets,	31 32 33
(d)	other matters prescribed by the regulations.	34
<b>31</b>	<b>Amount of financial assurances</b>	35
(1)	The amount of a financial assurance may be determined by the regulator.	36
(2)	The regulator must not require financial assurances of an amount that is more than the total cost of carrying out the actions required to comply with the product stewardship requirements and targets.	37 38 39
(3)	The total cost is the amount that, in the regulator’s opinion, represents a reasonable estimate of—	40 41
(a)	the total likely costs and expenses that may be incurred by the person who lodged the action plan in carrying out the actions required, and	42 43

(b)	the total likely costs and expenses of the regulator in directing and supervising the carrying out of the actions.	1 2
(4)	The regulator may require a person who lodged an action plan to provide an independent assessment of the cost of the relevant actions for which the assurance is required.	3 4 5
<b>32</b>	<b>Guidelines about financial assurances</b>	6
	The regulations may make provision for or about guidelines to be observed in relation to—	7 8
(a)	conditions imposed on action plans requiring financial assurances, and	9
(b)	the calculation of the amount of financial assurances.	10
<b>33</b>	<b>Regulator may carry out certain actions if failure to carry out action</b>	11
(1)	The regulator may, by the use of contractors, consultants or otherwise, cause an action covered by a financial assurance to be carried out if the person who lodged the action plan fails, in the regulator’s opinion, to carry out the action.	12 13 14
(2)	The regulator may enter, or authorise another person to enter, premises to carry out the action.	15 16
(3)	Anything caused to be carried out under this section is taken to have been carried out by the person who lodged the action plan.	17 18
<b>34</b>	<b>Recovery or funding of reasonable costs from financial assurance</b>	19
(1)	The regulator may recover or fund from the financial assurance the reasonable costs of causing action to be carried out under section 33.	20 21
(2)	Before recovering or funding reasonable costs from the financial assurance, the regulator must give to the person who lodged the action plan a written notice under this section.	22 23 24
(3)	The notice must—	25
(a)	state details of the action to which the costs apply, and	26
(b)	state the amount to be recovered or funded, and	27
(c)	invite the person who lodged the action plan to make written representations to the regulator to show why the amount should not be recovered or funded, and	28 29 30
(d)	state the period, being at least 30 days after the notice is given to the person who lodged the action plan, within which representations may be made.	31 32
(4)	After the end of the period stated in the notice, the regulator must consider written representations made within the period.	33 34
(5)	If the regulator decides to recover or fund the amount from the financial assurance, the regulator must, as soon as practicable, give written notice to the person who lodged the action plan of its decision and the reasons for the decision.	35 36 37
(6)	The regulator must return excess amounts, if any, to the person who lodged the action plan.	38 39
(7)	If the amount recovered or funded from the financial assurance is not sufficient to cover all reasonable costs and expenses, the regulator may recover the excess from the person who lodged the action plan as a debt in a court of competent jurisdiction.	40 41 42

<b>35</b>	<b>Lapsing of financial assurance</b>	1
	The requirement to provide financial assurance lapses and no longer binds the person who lodged the action plan if the regulator—	2
		3
	(a) is satisfied the action for which the financial assurance was required has been satisfactorily carried out, and	4
		5
	(b) has given the person written notice of the lapsing of the financial assurance.	6
<b>36</b>	<b>Liability of regulator, State and others</b>	7
	The following persons are not liable for anything done or omitted to be done in good faith in carrying out a function or action under this part—	8
		9
	(a) the State,	10
	(b) the Minister,	11
	(c) the regulator,	12
	(d) the members of the Board of the EPA,	13
	(e) a member of staff of the regulator,	14
	(f) a person acting under the direction of, or with the authority of, the Minister or the regulator.	15
		16
<b>37</b>	<b>Financial assurance not to affect other action</b>	17
	A financial assurance may be called on and used, despite and without affecting—	18
	(a) the liability of the person who lodged the action plan to a penalty for an offence for a contravention to which the assurance relates, and	19
		20
	(b) another action that may be, or is required to be, taken in relation to a contravention or other circumstances to which the assurance relates.	21
		22
<b>38</b>	<b>Disputes regarding call on or use of financial assurance</b>	23
	The Court has jurisdiction to determine disputes about calling on or using a financial assurance.	24
		25



<b>Part 4</b>	<b>General offences</b>	1
<b>39</b>	<b>Evidence as to state of mind of corporation</b>	2
(1)	Evidence that a person, while acting in the person’s capacity as an officer, employee or agent of a corporation, had, at a particular time, a particular state of mind, is evidence that the corporation had that state of mind.	3 4 5
(2)	In this section— <i>state of mind</i> , of a person, includes—	6 7
(a)	the knowledge, intention, opinion, belief or purpose of the person, and	8
(b)	the person’s reasons for the intention, opinion, belief or purpose.	9
<b>40</b>	<b>Offence—false or misleading information given by brand owner or product stewardship organisation</b>	10 11
(1)	A brand owner or product stewardship organisation must not give, whether by act or omission, information in connection with a matter under Part 2 or 3 that is false or misleading in a material particular. Maximum penalty—	12 13 14 15
(a)	for an individual—1,000 penalty units, or	16
(b)	otherwise—4,000 penalty units.	17
(2)	In this section— <i>give</i> includes the following—	18 19
(a)	print or include in or on a label or packaging material,	20
(b)	fail to correct,	21
(c)	publish on a publicly available website.	22
<b>41</b>	<b>Ancillary offences</b>	23
	A person is guilty of an offence under another provision of this Act or the regulations and is liable, on conviction, to the same penalty applicable to the offence if the person—	24 25 26
(a)	aids, abets, counsels or procures another person to commit the offence, or	27
(b)	attempts or conspires to commit the offence.	28

<b>Part 5</b>	<b>Criminal and other proceedings</b>	1
<b>42</b>	<b>Time within which summary proceedings may be commenced</b>	2
(1)	Proceedings for an offence under this Act or the regulations may be commenced—	3
(a)	for a prescribed offence—within but not later than 3 years after the date on which the offence is alleged to have been committed, or	4
(b)	otherwise—within but not later than 2 years after the date on which the offence is alleged to have been committed.	5
(2)	Proceedings for an offence under this Act or the regulations may also be commenced—	6
(a)	for a prescribed offence—within but not later than 3 years after the date on which evidence of the alleged offence first came to the attention of an authorised officer, or	7
(b)	otherwise—within but not later than 2 years after the date on which evidence of the alleged offence first came to the attention of an authorised officer.	8
(3)	If subsection (2) is relied on, the court attendance notice or summons—	9
(a)	must contain particulars of the date on which evidence of the offence first came to the attention of an authorised officer, and	10
(b)	is not required to contain particulars of the date on which the offence was committed.	11
(4)	The date on which evidence first came to the attention of an authorised officer is the date specified in the court attendance notice or summons unless another date is established.	12
(5)	This section applies only to proceedings to be dealt with summarily.	13
(6)	This section applies despite anything in the <i>Criminal Procedure Act 1986</i> or another Act.	14
(7)	In this section—	15
	<i>evidence</i> , of an offence, means evidence of an act or omission constituting the offence.	16
	<i>prescribed offence</i> means an offence arising under Part 2.	17
<b>43</b>	<b>Regulator may institute proceedings</b>	18
(1)	Proceedings for an offence against this Act or the regulations may be instituted by the regulator.	19
(2)	Proceedings may also be instituted by a member, an officer or employee of the regulator with the written consent of—	20
(a)	the regulator, or	21
(b)	a member, an officer or employee of the regulator authorised by the regulator for this section.	22
<b>44</b>	<b>Proof of certain appointments not required</b>	23
	In proceedings under this Act, no proof is required of the appointment of a member of staff of the regulator unless evidence is given to prove otherwise.	24

<b>45</b>	<b>Certificate evidence of certain matters</b>	1
(1)	A document signed by a certifier that certifies one or more of the following matters is admissible in proceedings under this Act and is prima facie evidence of the matter certified—	2
		3
		4
(a)	that a relevant instrument, a copy of which is set out in or annexed to a document, was issued, made or given on a specified day,	5
		6
(b)	that a person was or was not, at a specified time or during a specified period, an authorised officer, enforcement officer or a member of staff of the regulator,	7
		8
		9
(c)	that a person was or was not, at a specified time or during a specified period, an enforcement officer,	10
		11
(d)	that an exemption was or was not given under this Act in relation to a specified matter,	12
		13
(e)	that an exemption was or was not, at a specified time or during a specified period, in force or subject to specified conditions,	14
		15
(f)	that a consent necessary for bringing proceedings for an offence arising under this Act or the regulations has been duly given,	16
		17
(g)	that a person was or was not appointed by the regulator as an analyst under the <i>Protection of the Environment Operations Act 1997</i> , section 262 for this Act during a specified period,	18
		19
		20
(h)	that information required to be given to the regulator, or an authorised officer who is a member of staff of the regulator, under this Act, the regulations or the <i>Protection of the Environment Operations Act 1997</i> , Chapter 7 in connection with this Act or the regulations, was or was not received,	21
		22
		23
		24
(i)	that an amount is payable under this Act or the regulations by a specified person and has not been paid,	25
		26
(j)	that a person was served with a notice under this Act or the regulations,	27
(k)	that a specified function of the Minister was delegated to a specified person during a specified period.	28
		29
(2)	In this section—	30
	<b>certifier</b> means—	31
(a)	the regulator, or	32
(b)	an officer designated in writing by the regulator for this section.	33
	<b>relevant instrument</b> means an instrument purported—	34
(a)	to have been issued, made or given for this Act or the <i>Protection of the Environment Operations Act 1997</i> , Chapter 7 in connection with this Act, and	35
		36
(b)	to have been signed by the person authorised to issue, make or give the instrument, or by another person acting as delegate or on behalf of the person.	37
		38

<b>Part 6 Appeals</b>	1
<b>46 Appeals against financial assurance conditions</b>	2
(1) If a financial assurance condition is imposed on an approved action plan, the brand owner or product stewardship organisation subject to the plan may appeal to the Court against the condition.	3 4 5
(2) The brand owner or product stewardship organisation must lodge an appeal within 21 days, or another period prescribed by the regulations, after being notified of the condition.	6 7 8
(3) The lodging of an appeal does not, except to the extent the Court otherwise directs in relation to the appeal, operate to stay the condition appealed against.	9 10
(4) In this section— <i>financial assurance condition</i> means a condition imposed on an approved action plan under section 29.	11 12 13
<b>47 Determination of appeals</b>	14
(1) The Court may hear and determine an appeal made under this Act.	15
(2) The Court’s decision on an appeal under this Act is final and binding on the appellant and the person or body whose decision or notice is the subject of the appeal.	16 17

## Part 7 Miscellaneous

### 48 Service of documents

- (1) A document authorised or required by this Act or the regulations to be served on a person may be served in any of the following ways—
- (a) for service on an individual—
    - (i) by personal delivery to the individual, or
    - (ii) by post to—
      - (A) the address specified by the individual for service of documents generally or documents of that kind, or
      - (B) if the individual has not specified an address for service—the residential or business address of the individual last known to the person serving the document, or
    - (iii) if the individual’s address for service includes a document exchange address in New South Wales—by leaving a copy of the document, addressed to the individual, at the document exchange in accordance with the usual arrangements for the exchange, or
    - (iv) by leaving a copy of the document, addressed to the individual—
      - (A) at the address specified by the individual for service of documents generally or documents of that kind, or
      - (B) if the individual has not specified an address for service—at the residential or business address of the individual last known to the person serving the document, or
    - (v) if the individual has consented, whether explicitly or impliedly, to service of documents generally or documents of that kind by electronic communication—by electronic communication, or  
**Examples of impliedly consenting to service of documents by electronic communication—**previously using email to correspond with the EPA or including the individual’s email address on applications made, or other documents given, to the EPA
    - (vi) in another way authorised by the regulations for the service of documents generally or documents of that kind,
  - (b) for service on another person—
    - (i) by post to—
      - (A) the address specified by the person for service of documents generally or documents of that kind, or
      - (B) if the person has not specified an address for service—the business address of the person last known to the person serving the document, or
    - (ii) by leaving a copy of the document, addressed to the person—
      - (A) at the address specified by the person for service of documents generally or documents of that kind, or
      - (B) if the person has not specified an address for service—at the business address of the person last known to the person serving the document, or
    - (iii) if the person’s address for service includes a document exchange address in New South Wales—by leaving a copy of the document, addressed to the person, at the document exchange in accordance with the usual arrangements for the exchange, or

(iv)	if the person has consented, whether explicitly or impliedly, to service of documents generally or documents of that kind by electronic communication—by electronic communication, or	1 2 3
	<b>Examples of impliedly consenting to service of documents by electronic communication</b> —previously using email to correspond with the EPA or including the person’s email address on applications made, or other documents given, to the EPA	4 5 6 7
(v)	in another way authorised by the regulations for the service of documents generally or documents of that kind.	8 9
(2)	Nothing in this section affects the operation of another law, including the rules of a court, authorising a document to be served on a person in another way.	10 11
(3)	In this section— <i>electronic communication</i> has the same meaning as in the <i>Electronic Transactions Act 2000</i> . <i>serve</i> includes give, issue, notify and send.	12 13 14 15
<b>49</b>	<b>Continuing effect of notices</b>	16
(1)	A notice given under this Act or the regulations that specifies a time by which, or period within which, the notice must be complied with continues to have effect until the notice is complied with even though the time has passed or the period has expired.	17 18 19
(2)	A notice that does not specify a time by which, or period within which, the notice must be complied with continues to have effect until the notice is complied with.	20 21
(3)	This section does not apply to the extent a requirement under a notice is revoked.	22
(4)	Nothing in this section affects the powers of the regulator in relation to the enforcement of a notice.	23 24
<b>50</b>	<b>Regulator may grant exemptions</b>	25
(1)	The regulator may grant an exemption under this section from specified provisions of this Act or the regulations, whether generally or in specified circumstances.	26 27
(2)	The regulator may grant an exemption for a person by reference to the following—	28
(a)	premises,	29
(b)	a product,	30
(c)	another matter or thing.	31
(3)	The regulator may grant an exemption—	32
(a)	on its own initiative, or	33
(b)	on the application of a person to whom the exemption applies.	34
(4)	An application under this section must—	35
(a)	be in the approved form, and	36
(b)	be accompanied by the fee, if any, determined by the regulator, and	37
(c)	be accompanied by information, documents or evidence the regulator requires for the purpose of determining whether the exemption should be granted.	38 39
(5)	An exemption granted under this section is effected as follows—	40
(a)	for an exemption granted to specified persons only—by notice published in the Gazette or by written notice given to the persons,	41 42
(b)	otherwise—by notice published in the Gazette.	43
(6)	An exemption granted under this section takes effect—	44

(a)	on the date on which the notice is published or given in accordance with this section, or	1
(b)	if a later date is specified in the notice—on the later date.	2
(7)	An exemption granted under this section may be unconditional or may be subject to conditions specified in the notice.	3
(8)	The regulator may vary or revoke an exemption granted under this section by a further notice published or given in accordance with this section.	4
<b>51</b>	<b>Delegation</b>	5
	The Minister may delegate the exercise of a function of the Minister under this Act or the regulations, other than this power of delegation, to—	6
(a)	a member of staff of the regulator, or	7
(b)	a person authorised for this section by the regulations.	8
<b>52</b>	<b>Personal liability</b>	9
(1)	A protected person is not personally subject to liability for anything done—	10
(a)	in good faith, and	11
(b)	for the purpose of exercising a function under this Act.	12
(2)	The liability instead attaches to the Crown.	13
(3)	In this section—	14
	<i>done</i> includes omitted to be done.	15
	<i>liability</i> means civil liability and includes action, claim or demand.	16
	<i>protected person</i> means—	17
(a)	the Minister, or	18
(b)	a member of staff of the regulator, or	19
(c)	an authorised officer, or	20
(d)	an enforcement officer, or	21
(e)	a person acting under the direction of, or with the authority of, the Minister or the regulator.	22
<b>53</b>	<b>Fees</b>	23
(1)	A fee or other charge payable to the regulator under this Act or the regulations may be recovered by the regulator as a debt due to the Crown in a court of competent jurisdiction.	24
(2)	The regulator may refund or waive the whole or a part of a fee or other charge payable to the regulator under this Act or the regulations.	25
<b>54</b>	<b>Public register</b>	26
(1)	The regulator must keep a public register in accordance with this section.	27
(2)	The regulator must record the following information in the register—	28
(a)	details of exemptions granted by the regulator under this Act,	29
(b)	details of convictions for prosecutions initiated by the regulator under this Act,	30
(c)	details of penalty notices issued under this Act or the regulations,	31
(d)	other details or information prescribed by the regulations.	32

(3)	The regulator may record the name of an individual or business in the register, including a name under which an individual or business trades.	1 2
(4)	The regulator may remove exemptions that are no longer in force from the register.	3
(5)	The register may be kept only in electronic form.	4
(6)	An extract of the register may be made available on request by a person.	5
(7)	The regulations may specify the following—	6
	(a) the means by which the register may be inspected,	7
	(b) when copies may be obtained,	8
	(c) fees for the inspection of the register,	9
	(d) fees for copies of parts of the register,	10
	(e) that the register, or a part of the register, may be made publicly available.	11
(8)	In this section—	12
	<i>details</i> , of a matter, means—	13
	(a) particulars of the matter, or	14
	(b) a copy of the matter, or	15
	(c) an electronic or other reproduction of the matter.	16
<b>55</b>	<b>Consultation requirements</b>	17
(1)	This section applies to the making of a regulation that contains a provision prescribing a regulated product (a <i>relevant provision</i> ).	18 19
(2)	This section does not apply to—	20
	(a) the remake of a regulation, or	21
	(b) the making of a regulation that repeals or amends a relevant provision.	22
(3)	Before recommending the making of the regulation by the Governor, the Minister must take reasonable steps—	23 24
	(a) to publicise, for at least 8 weeks, an explanation of the intended effect of the relevant provision, and	25 26
	(b) to seek and consider submissions from the public on the matter.	27
(4)	The regulation must not commence earlier than 12 months after the regulation is published.	28 29
(5)	The Minister may dispense with a requirement in subsection (3) or (4) if satisfied that—	30 31
	(a) dispensing with the requirement is in the public interest, or	32
	(b) the making of the regulation is urgent.	33
(6)	In this section—	34
	<i>published</i> means published on the NSW legislation website.	35
<b>56</b>	<b>Act to bind Crown</b>	36
	This Act binds the Crown in right of New South Wales and, to the extent the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	37 38 39
<b>57</b>	<b>Regulations</b>	40
(1)	The Governor may make regulations about a matter that is—	41



(a)	required or permitted by this Act to be prescribed, or	1
(b)	necessary or convenient to be prescribed for carrying out or giving effect to this Act.	2 3
(2)	In particular, the regulations may make provision about the following—	4
(a)	an accreditation scheme or other scheme for the purpose of approving auditors,	5 6
(b)	requiring reports by brand owners and product stewardship organisations to be prepared, given to the regulator or made publicly available,	7 8
(c)	requiring or allowing information and records required to be given or kept under this Act to be given or kept in electronic form,	9 10
(d)	requiring brand owners and product stewardship organisations to notify the regulator of significant events, including the way a notification must be made,	11 12
(e)	fees and charges in connection with the administration of this Act or the regulations, including the following—	13 14
(i)	the amount, or the determination of the amount by the regulator, of the fees and charges,	15 16
(ii)	the time within which the fees and charges must be paid,	17
(iii)	the payment and recovery of the fees and charges.	18
(3)	Without limiting subsection (1), the regulations may make provision about the granting of exemptions, with or without conditions, from specified provisions of this Act or the regulations, whether generally or in specified circumstances for a person by reference to the following—	19 20 21 22
(a)	premises,	23
(b)	a product,	24
(c)	another matter or thing.	25
(4)	Without limiting subsections (1) and (2)(e), the regulations may deal with the following—	26 27
(a)	fees to accompany notifications to the regulator,	28
(b)	annual fees payable to product stewardship organisations,	29
(c)	fees to accompany the lodgement of action plans to the regulator,	30
(d)	fees related to directions under section 11(4).	31
(5)	The regulations may create offences punishable by a penalty that is no more than—	32
(a)	200 penalty units for an individual, or	33
(b)	400 penalty units for a corporation.	34
(6)	The regulations may incorporate by reference, wholly or in part and with or without modification, standards, rules, codes, specifications, methods or another document, as in force at a particular time or from time to time, prescribed or published by an authority or body, whether or not it is a New South Wales authority or body.	35 36 37 38
<b>58</b>	<b>Review of Act</b>	39
(1)	The Minister must review this Act to determine whether—	40
(a)	the policy objectives of the Act remain valid, and	41
(b)	the terms of the Act remain appropriate for securing the objectives.	42
(2)	The review must be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	43 44

- (3) A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the review is completed.

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## Schedule 1 Savings, transitional and other provisions 1

### Part 1 General 2

#### 1 Regulations 3

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—
  - (a) a provision of this Act, or 6
  - (b) a provision amending this Act. 7
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement. 8 9
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement. 10 11
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—
  - (a) for a provision of this Act—the date of assent to this Act, or 14
  - (b) for a provision amending this Act—the date of assent to the amending Act. 15
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not—
  - (a) affect the rights of a person existing before that publication in a way prejudicial to the person, or 18 19
  - (b) impose liabilities on a person for anything done or omitted to be done before that publication. 20 21
- (6) In this section—  
*person* does not include the State or an authority of the State. 22 23

### Part 2 Provisions consequent on enactment of this Act 24

#### 2 Definitions 25

In this part—  
*commencement date* means the date of commencement of this part. 26 27

#### 3 Consultation requirements under earlier corresponding provisions 28

- (1) An action taken by the Minister under the *Plastic Reduction and Circular Economy Act 2021*, section 66(3), as in force immediately before the commencement date, is taken to have been taken under this Act, section 55(3). 29 30 31
- (2) A decision of the Minister under the *Plastic Reduction and Circular Economy Act 2021*, section 66(6), as in force immediately before the commencement date, to dispense with a requirement is taken to have been taken under this Act, section 55(5). 32 33 34

#### 4 Authorised officers and enforcement officers 35

- (1) A person is taken to be an authorised officer appointed for this Act if the person—
  - (a) was, immediately before the commencement date, appointed by the EPA as an authorised officer under the *Protection of the Environment Operations Act 1997*, Part 7.2 in connection with the *Plastic Reduction and Circular Economy Act 2021*, and 37 38 39 40
  - (b) is a member of staff of the EPA. 41

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|-----|---|-----------------------|
| (2) | A person authorised under the <i>Protection of the Environment Operations Act 1997</i> , section 226 to exercise the functions of an enforcement officer in connection with the <i>Plastic Reduction and Circular Economy Act 2021</i> immediately before the commencement date is taken to be authorised to exercise the functions of an enforcement officer in connection with offences under this Act. | 1<br>2<br>3<br>4<br>5 |
| (3) | An identity card issued to a person referred to in subsection (1) or (2) on or before the commencement date is, while in force under the <i>Protection of the Environment Operations Act 1997</i> , taken to be an identity card issued for the purposes of this Act.   | 6<br>7<br>8           |

<b>Schedule 2</b>	<b>Amendment of other legislation</b>	1
<b>2.1</b>	<b>Land and Environment Court Act 1979 No 204</b>	2
<b>[1]</b>	<b>Section 17 Class 1—environmental planning and protection appeals</b>	3
	Omit “Part 8.” from section 17(n). Insert instead—	4
	Part 8,	5
	(o) appeals to the Court under the <i>Product Lifecycle Responsibility Act 2025</i> , Part 6.	6 7
<b>[2]</b>	<b>Section 20 Class 4—environmental planning and protection, development contract and strata renewal plan civil enforcement</b>	8 9
	Omit section 20(1)(dl). Insert instead—	10
	(dl) proceedings under the <i>Product Lifecycle Responsibility Act 2025</i> , section 38,	11 12
<b>[3]</b>	<b>Section 20(3)(a)</b>	13
	Insert the following after the matter relating to the <i>Plumbing and Drainage Act 2011</i> —	14
	<i>Product Lifecycle Responsibility Act 2025</i> ,	15
<b>[4]</b>	<b>Section 21 Class 5—environmental planning and protection summary enforcement</b>	16
	Insert after section 21(hfc)—	17
	(hfd) proceedings for an offence under the <i>Product Lifecycle Responsibility Act 2025</i> ,	18 19
<b>2.2</b>	<b>Plastic Reduction and Circular Economy Act 2021 No 31</b>	20
<b>[1]</b>	<b>Section 3 Objects of Act</b>	21
	Omit section 3(1)(d).	22
<b>[2]</b>	<b>Parts 3 and 4</b>	23
	Omit the parts.	24
<b>[3]</b>	<b>Section 66 Consultation requirements</b>	25
	Omit the following from section 66(1)—	26
	section 8,	27
	(c) a regulated product.	28
	Insert instead “section 8.”	29
<b>[4]</b>	<b>Section 66(5)</b>	30
	Omit the subsection.	31
<b>[5]</b>	<b>Schedule 4 Dictionary</b>	32
	Omit the following definitions—	33
	<i>approved action plan</i>	34
	<i>brand owner</i>	35
	<i>financial year</i>	36
	<i>product stewardship requirement</i>	37

	<i>product stewardship target</i>	1
	<i>regulated product</i>	2
	<i>supplier</i>	3
[6]	<b>Schedule 4, definition of “supply”, paragraph (b)</b>	4
	Omit “section 4(2), and”.	5
	Insert instead “section 4(2).”.	6
[7]	<b>Schedule 4, definition of “supply”, paragraph (c)</b>	7
	Omit the paragraph.	8
<b>2.3</b>	<b>Protection of the Environment Administration Act 1991 No 60</b>	9
[1]	<b>Section 3 Definitions</b>	10
	Insert after section 3(1), definition of <i>environment protection legislation</i> , paragraph (ga)—	11
	(gb) <i>Product Lifecycle Responsibility Act 2025</i> ,	12
[2]	<b>Section 34A Environment Protection Authority Fund</b>	13
	Insert after section 34A(3)(b)(ia)—	14
	(ib) the <i>Product Lifecycle Responsibility Act 2025</i> ,	15
[3]	<b>Section 34A(3)(b5)</b>	16
	Insert after section 34A(4)(b4)—	17
	(b5) amounts payable to the Authority by product stewardship organisations under a penalty provision under the <i>Product Lifecycle Responsibility Act 2025</i> , section 24(2), and	18 19 20
<b>2.4</b>	<b>Protection of the Environment Operations Act 1997 No 156</b>	21
[1]	<b>Section 186 Extension of Chapter to other environment protection legislation</b>	22
	Insert after section 186(b6)—	23
	(b7) <i>Product Lifecycle Responsibility Act 2025</i> and the regulations under that Act,	24 25
[2]	<b>Section 213 Application of Chapter and extension of Chapter to other environment protection legislation</b>	26 27
	Insert after section 213(2)(c)—	28
	(c1) <i>Product Lifecycle Responsibility Act 2025</i> ,	29
[3]	<b>Section 320A False representations</b>	30
	Omit “order.” from section 320A(1)(d). Insert instead—	31
	order, or	32
	(e) the person or another person is a member of a product stewardship organisation within the meaning of the <i>Product Lifecycle Responsibility Act 2025</i> .	33 34 35
[4]	<b>Schedule 2 Regulation-making powers</b>	36
	Insert after item 10A—	37

<b>10B</b>	<b>Qualifications, certification, competency and training requirements</b>	1
	Prescribing qualifications, certification, competency and training requirements for individuals or corporations undertaking an activity referred to in Schedule 1, whether or not the activity meets a criteria or threshold in the schedule.	2 3 4 5
<b>2.5</b>	<b>Waste Avoidance and Resource Recovery Act 2001 No 58</b>	6
	<b>Part 4 Responsibilities with respect to industry waste reduction</b>	7
	Omit the part.	8

## Schedule 3 Dictionary

	1
section 4	2
<b>approved action plan</b> —see section 18(1)(a).	3
<b>authorised officer</b> means a person appointed as an authorised officer by the EPA under the <i>Protection of the Environment Operations Act 1997</i> , Part 7.2 for this Act.	4
<b>brand owner</b> —see section 6.	5
<b>carrying on a business</b> includes the following, but excludes an activity prescribed by the regulations—	6
(a) carrying on an activity for commercial, charitable, sporting, educational or community purposes, and	7
(b) carrying on a not-for-profit business, and	8
(c) carrying on a business as a partnership or a sole trader.	9
<b>Court</b> means the Land and Environment Court.	10
<b>enforcement officer</b> has the same meaning as in the <i>Protection of the Environment Operations Act 1997</i> .	11
<b>environment</b> means components of the earth, including human-made or modified structures and areas, the following components and interacting natural ecosystems that include the following components—	12
(a) land, air and water,	13
(b) a layer of the atmosphere,	14
(c) organic or inorganic matter and living organisms.	15
<b>EPA</b> means the Environment Protection Authority constituted by the <i>Protection of the Environment Administration Act 1991</i> .	16
<b>exercise</b> a function includes perform a duty.	17
<b>financial year</b> means the period of 12 months commencing on 1 July in a year.	18
<b>function</b> includes a power, authority or duty.	19
<b>packaging material</b> means material used for containing, protecting, marketing, selling or handling a product, including—	20
(a) transit packaging, for example, packaging material used to transport the product, and	21
(b) packaging provided by a retailer to a consumer for transporting the product from the retailer, and	22
(c) labelling.	23
<b>product</b> includes the following—	24
(a) a substance,	25
(b) packaging material,	26
(c) a scheme.	27
<b>product stewardship arrangement</b> —see section 23.	28
<b>product stewardship organisation</b> —see section 22(1).	29
<b>product stewardship requirement</b> —see section 8(2)(a).	30
<b>product stewardship scheme</b> —see section 8(1).	31
<b>product stewardship target</b> means a target—	32
(a) specified in accordance with section 8(2)(b), or	33
(b) set by the Minister under section 9.	34
<b>regulated product</b> means a product, or part of a product, prescribed by the regulations for this Act.	35
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<b>regulator</b> means the EPA.	1
<b>safety requirement</b> means a product stewardship requirement declared by the regulations to be a safety requirement under section 8(5).	2 3
<b>stewardship administration agreement</b> —see section 22(1).	4
<b>supplier</b> means a person who supplies a product.	5
<b>supply</b> a product—	6
(a) includes the following, but does not include the circumstances excluded by the regulations—	7 8
(i) sell, supply, re-supply or distribute the product,	9
(ii) receive or possess the product for the purpose of supplying it to another person,	10
(iii) an offer to supply the product, including advertising the product or making other representations with the intention of supplying the product,	11 12
(iv) display the product with the intention of supplying the product,	13
(v) make the product available or give the product to a person,	14
(vi) other circumstances prescribed by the regulations, and	15
(b) see section 4(2), and	16
(c) for section 6 and Part 2—see section 7.	17