

South Australia

## Plastic Shopping Bags (Waste Avoidance) Act 2008

An Act to restrict the supply of single use plastic shopping bags.

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**The Parliament of South Australia enacts as follows:**

#### 1—Short title

This Act may be cited as the *Plastic Shopping Bags (Waste Avoidance) Act 2008*.

#### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

#### 3—Interpretation

In this Act—

***authorised officer*** means a person who is an authorised officer for the purposes of the *Environment Protection Act 1993*;

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

***plastic shopping bag*** means—

- (a) a carry bag—
  - (i) the body of which comprises (in whole or in part) polyethylene with a thickness of less than 35 microns; and
  - (ii) that includes handles; or
- (b) a bag that is of a kind brought within the ambit of this definition by the regulations,

but does not include—

- (c) a biodegradable bag; or
- (d) a plastic bag that constitutes, or forms an integral part of, the packaging in which goods are sealed prior to sale; or
- (e) a bag that is of a kind excluded from the ambit of this definition by the regulations;

*prescribed day* means a day prescribed by regulation for the purposes of this definition;

*relevant standard* means AS 4736/2006 (as in force from time to time).

#### **4—Retailer must provide alternative shopping bag until prescribed day**

- (1) From the day on which this section comes into operation until the day immediately preceding the prescribed day, a retailer who at any premises makes plastic shopping bags available to customers as a means of carrying goods purchased, or to be purchased, from the retailer must—
  - (a) be in a position to provide an alternative shopping bag to a customer who requests that the retailer provide him or her with such a bag; and
  - (b) display a notice, or notices, in the premises in accordance with the requirements prescribed by regulation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) This section does not prevent a retailer from requiring a customer to pay a fee for the provision of an alternative shopping bag.
- (3) In this section—

*alternative shopping bag* means a carry bag that—

- (a) is a biodegradable bag; or
- (b) is designed to be used on a regular basis over a period of approximately 2 years; or
- (c) is of a kind brought within the ambit of this definition by the regulations.

#### **5—Retailer not to provide plastic shopping bag**

- (1) If—
  - (a) a retailer provides a plastic shopping bag to a customer on or after the prescribed day; and
  - (b) the plastic shopping bag is provided to the customer as a means of carrying goods purchased, or to be purchased, from the retailer,

the retailer is guilty of an offence.

Maximum penalty: \$5 000.

Expiation fee: \$315.

- (2) It is a defence to a charge of an offence under subsection (1) if the retailer proves that he or she believed on reasonable grounds that the bag was not a plastic shopping bag.

- (3) This section applies whether or not a fee is charged to the customer for provision of the plastic shopping bag.

## **6—Person must not represent that supplied plastic shopping bag is not a plastic shopping bag**

If—

- (a) a person sells, supplies or provides a bag to another knowing that it is a plastic shopping bag; and
- (b) prior to, or in the course of, selling, supplying or providing the bag, the person represents to the other that the bag is not a plastic shopping bag,

the person is guilty of an offence.

Maximum penalty: \$20 000.

## **7—Interaction with Environment Protection Act**

- (1) This Act and the *Environment Protection Act 1993* will be read together and construed as if the 2 Acts constituted a single Act.
- (2) Without derogating from subsection (1), authorised officers may exercise their powers under the *Environment Protection Act 1993* for the purposes of the administration and enforcement of this Act.
- (3) In the event of an inconsistency between this Act and the *Environment Protection Act 1993*, the provisions of this Act prevail.

## **8—Review of Act**

- (1) The Minister must, as soon as practicable after the second anniversary of the prescribed day, appoint a person to prepare a report on—
  - (a) the effect on the community of section 5; and
  - (b) the extent to which this Act has been effective in restricting the supply of plastic shopping bags; and
  - (c) other matters determined by the Minister to be relevant to a review of this Act.
- (2) The person must report to the Minister within 6 months after his or her appointment.
- (3) The Minister must, within 12 sitting days after receiving the report under this section, have copies of the report laid before both Houses of Parliament.

## **9—Regulations**

- (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.
- (2) The regulations may, either unconditionally or subject to conditions, exempt any specified person or class of persons from the operation of this Act or of any specified provision of this Act.
- (3) Regulations under this Act may—
  - (a) be of general application or limited application; or

- (b) make different provision according to the matters or circumstances to which they are expressed to apply; or
- (c) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or any other person or body prescribed by the regulations; or
- (d) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Minister or another prescribed body.