

South Australia

# Single-use and Other Plastic Products (Waste Avoidance) Regulations 2021

under the *Single-use and Other Plastic Products (Waste Avoidance) Act 2020*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Single-use and Other Plastic Products (Waste Avoidance) Regulations 2021*.

### 2—Commencement

These regulations come into operation on the day on which section 6(1)(a) of the *Single-use and Other Plastic Products (Waste Avoidance) Act 2020* comes into operation.

### 3—Interpretation

In these regulations, unless the contrary intention appears—

**Act** means the *Single-use and Other Plastic Products (Waste Avoidance) Act 2020*;

**care facility** means a nursing home, aged care facility, supported residential facility or other facility at which disability support, palliative care, respite care or rehabilitation services are provided;

**charitable organisation** means an entity registered under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth;

**designated person** means a person who requires a single-use plastic drinking straw due to a disability or for medical purposes or medical reasons;

**local government council** means a council under the *Local Government Act 1999*;

**medical or dental facility** means a facility at which medical or dental services (including treatment, care, research or diagnostic services) are provided;

*pharmacy business* has the same meaning as in Part 4 of the *Health Practitioner Regulation National Law (South Australia) Act 2010*;

*prescribed business* means—

- (a) a pharmacy business; or
- (b) a local government council; or
- (c) a charitable organisation; or
- (d) a care facility; or
- (e) a medical or dental facility;

*relevant food or beverage product* means a food or beverage product that is pre-packaged as a single-serve and is ready for—

- (a) immediate consumption; or
- (b) consumption after cooling or heating the food or beverage;

*supported residential facility* means premises licensed as a supported residential facility under the *Supported Residential Facilities Act 1992*.

#### **4—Definition of prohibited plastic product (section 6(1) of Act)—exclusions**

Pursuant to section 6(1) of the Act, the following products, or products of a class, are excluded from the ambit of the definition of *prohibited plastic product*:

- (a) single-use plastic drinking straws or single-use plastic cutlery that form an integral part of a relevant food or beverage product (whether attached to or contained in the product) to enable or assist with consumption of the food or beverage;
- (b) expanded polystyrene cups or expanded polystyrene bowls that form part of the packaging of a relevant food or beverage product.

#### **5—Exemption for single-use plastic drinking straws—sale, supply and distribution to designated person**

- (1) Pursuant to section 16(2) of the Act, a person is exempt from section 7(1) of the Act in respect of single-use plastic drinking straws if—
  - (a) the sale, supply or distribution of the straws (as the case requires) is of an individual straw—
    - (i) to a designated person or person who purports to be a designated person; or
    - (ii) to a person acting on behalf of a designated person or a person who purports to be acting on behalf of a designated person; and
  - (b) any such straws kept or stored in a part of premises, or other place, at which the person carries on a business and to which members of the public have or are permitted access, are not on public display or freely accessible without the assistance of the person or an agent or employee of the person.

- (2) A person may sell, supply or distribute an individual single-use plastic drinking straw pursuant to an exemption under subregulation (1)—
  - (a) on the basis of a statement, or other indication, by the person to whom it is being sold, supplied or distributed (as the case requires), or to the effect, that the straw is required because they are a designated person, or acting on behalf of a designated person; or
  - (b) on the basis that it is otherwise apparent to the person that the straw is required because the person to whom it is being sold, supplied or distributed (as the case requires) is a designated person, or acting on behalf of a designated person.
- (3) For the purposes of subregulation (2), no evidence or other verification of the basis on which the straw is provided under that subregulation is required—
  - (a) to be sought by the person selling, supplying or distributing the straw; or
  - (b) to be produced by the person to whom the straw is being sold, supplied or distributed.
- (4) For the avoidance of doubt, subregulation (1) does not prevent the sale, supply or distribution of an additional individual single-use plastic drinking straw (or straws) to a designated person (or person who purports to be a designated person) or to a person acting (or who purports to be acting) on behalf of a designated person, if the straw is required by the designated person in the circumstances.

#### **6—Exemption for single-use plastic drinking straws—sale, supply and distribution by prescribed business**

- (1) Pursuant to section 16(2) of the Act, a person is exempt from section 7(1) of the Act in respect of single-use plastic drinking straws if the person is a prescribed business and the business sells, supplies or distributes the straws (as the case requires) for the purpose of—
  - (a) use by designated persons; or
  - (b) enabling the sale, supply or distribution by another person who, in the course of carrying on a business, requires the straws for the purpose of sale, supply or distribution to a designated person, or to a person acting on behalf of a designated person (as the case requires).
- (2) For the purposes of subregulation (1)—
  - (a) the person to whom the single-use plastic drinking straws are being sold, supplied or distributed is not required to produce evidence of, or otherwise verify, the purpose for which the straws are being obtained; and
  - (b) the prescribed business is not required to seek evidence of, or otherwise verify, the purpose for which the straws are being obtained by the person to whom they are being sold, supplied or distributed; and
  - (c) to avoid doubt—
    - (i) the number of single-use plastic drinking straws need not be limited to individual straws; and

- (ii) the straws may be on public display and may be freely accessible without assistance provided by the prescribed business or an employee or agent of the business.

### **7—Exemption for single-use plastic drinking straws—sale, supply and distribution by wholesalers and distributors**

- (1) Pursuant to section 16(2) of the Act, a person is exempt from section 7(1) of the Act in respect of single-use plastic drinking straws if the person sells, supplies or distributes the straws in the course of carrying on a business as a wholesaler or distributor and—
  - (a) the person is satisfied, on reasonable grounds, that the sale, supply or distribution of the straws (as the case requires) is—
    - (i) to a prescribed business; or
    - (ii) to another person who, in the course of carrying on a business, requires the straws for the purpose of sale, supply or distribution to a designated person, or to a person acting on behalf of a designated person (as the case requires); or
  - (b) the sale, supply or distribution of the straws (as the case requires) is—
    - (i) to a designated person or person who purports to be a designated person; or
    - (ii) to a person acting on behalf of a designated person or a person who purports to be acting on behalf of a designated person,and the sale, supply or distribution occurs in accordance with subregulation (2).
- (2) A person may sell, supply or distribute single-use plastic drinking straws pursuant to an exemption under subregulation (1)(b)—
  - (a) on the basis of a statement, or other indication, by the person to whom they are being sold, supplied or distributed (as the case requires), or to the effect, that the straws are required because they are a designated person, or acting on behalf of a designated person; or
  - (b) on the basis that it is otherwise apparent to the person that the straws are required because the person to whom they are being sold, supplied or distributed (as the case requires) is a designated person, or acting on behalf of a designated person.
- (3) For the purposes of subregulation (2), no evidence or other verification of the basis on which the straws are provided under that subregulation is required—
  - (a) to be sought by the person selling, supplying or distributing the straws; or
  - (b) to be produced by the person to whom the straws are being sold, supplied or distributed.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2021	19	<i>Gazette 25.2.2021 p648</i>	1.3.2021: r 2