

# CONSULTATION DRAFT

(Prepared by Parliamentary Counsel's Office)

## Circular Economy Regulation 2023

### Subordinate Law SL2023-

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The Australian Capital Territory Executive makes the following regulation under the *Circular Economy Act 2023*.

Dated 2023.

Chief Minister

Minister

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**Subordinate Law SL2023-**

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**Circular Economy Act 2023**

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Circular Economy Regulation 2023*.

### 2 Commencement

- (1) This regulation (other than part 4 and schedule 2) commences on the day the *Circular Economy Act 2023*, section 3 commences.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) Part 4 and schedule 2 commence on the later of—

- (a) the day this regulation commences; and
- (b) 1 January 2024.

### 3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition '*food business*, for part 2 (Waste reduction measures)—see section 6.' means that the term 'food business' is defined in that section for part 2.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

## 5      **Offences against regulation—application of Criminal Code etc**

Other legislation applies in relation to offences against this regulation.

*Note 1    Criminal Code*

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

*Note 2    Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Waste reduction measures

### 6 Definitions—pt 2

- (1) In this part:

*food business*—

- (a) means the following:

- (i) a supermarket;
- (ii) a cafe or restaurant;
- (iii) a club, hotel or bar that sells food;
- (iv) a business that sells takeaway food; but

- (b) does not include a business mentioned in paragraph (a) if it is conducted by—

- (i) a not-for-profit entity other than an entity that holds a licence under the *Gaming Machine Act 2004*; or
- (ii) volunteers.

**Examples—par (b)**

a charity providing free or subsidised food to people experiencing homelessness etc, school canteens, sports club canteens, school or community fetes, fundraising barbeques

*registered waste transporter* means a waste transporter on the waste transporter register under the *Waste Management and Resource Recovery Act 2016*, section 37.

- (2) In this section:

*licence*—see the *Gaming Machine Act 2004*, dictionary.

**7 Food business waste reduction requirements—Act, s 8 (a)**

- (1) A person conducting a food business must prepare a plan for the business (a *waste reduction plan*) that—
  - (a) identifies the areas of the business's operations where food waste is produced; and
  - (b) estimates how much food waste is produced in those areas; and
  - (c) identifies ways to reduce the amount of food waste produced by the business, including through—
    - (i) ordering, storage and preparation of food; or
    - (ii) alternative uses of edible food waste, for example, donation of food to charities; or
    - (iii) alternative uses for inedible food waste.
- (2) A person conducting a food business must—
  - (a) monitor the effectiveness of the waste reduction plan in reducing the amount of waste produced by the business; and
  - (b) regularly review and, if necessary, update the waste reduction plan.
- (3) If requested in writing by an authorised person, a person conducting a food business must give the authorised person a copy of the waste reduction plan for the business.

Maximum penalty: 20 penalty units.

- (4) An offence against this section is a strict liability offence.



**8 Recyclable waste processing requirements—Act, s 9 (b)**

- (1) A person conducting a business must dispose of the recyclable waste produced by the business—
- (a) using a registered waste transporter to transport the recyclable waste to a place other than landfill; or
  - (b) at a facility operated by a material recovery facility operator; or
  - (c) through the container deposit scheme.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

*container deposit scheme* means a scheme established under the *Waste Management and Resource Recovery Act 2016*, part 10A.

*material recovery facility operator*—see the *Waste Management and Resource Recovery Act 2016*, section 64B.

*recyclable waste* means the material mentioned in schedule 1, column 2.

**9 Food business waste processing requirements—Act, s 9 (b)**

- (1) A person conducting a food business must dispose of the food waste produced by the business—
- (a) using a registered waste transporter to transport the food waste to a place other than landfill; or
  - (b) in accordance with an authorisation given under section 10.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**10      Waste manager may authorise other ways to dispose  
food waste**

- (1) For section 9 (1) (b), the waste manager may, on application or on the waste manager's own initiative, give a person conducting a food business written authorisation to dispose of food waste produced by the business in a stated way.
- (2) An application must include any information required by the waste manager.
- (3) The waste manager may give an authorisation only if satisfied that the person conducting the food business has other arrangements in place to ensure food waste produced by the business—
  - (a) does not go to landfill; and
  - (b) is otherwise dealt with appropriately.
- (4) In this section:

**waste manager**—see the *Waste Management and Resource Recovery Act 2016*, dictionary.

## Part 3 Prohibited products

### 11 Prescribed single-use plastic product—Act, s 13 (1), def *prohibited plastic product*, par (a) (i)

- (1) The following are prescribed:
- (a) a single-use expanded polystyrene container for serving food or a beverage;
  - (b) a single-use expanded polystyrene tray used for packaging perishable food for retail sale;
  - (c) single-use expanded polystyrene loose-fill packaging;  
**Example**  
packing peanuts used to protect products during transportation
  - (d) a single-use plastic plate;
  - (e) a single-use plastic bowl, other than a bowl designed or intended to have a spill-proof lid;
  - (f) a single-use plastic beverage stirrer;
  - (g) single-use plastic cutlery;
  - (h) a single-use plastic shopping bag;
  - (i) a single-use plastic drinking straw;
  - (j) a cotton bud with a single-use plastic stick or stem;
  - (k) single-use plastic microbeads contained in a rinse-off product.

*Note* Subsection (1) does not apply to a single-use plastic product that is an integrated packaging item, eg a straw attached to a juice box (see Act, s 13 (1), def *prohibited plastic product*, par (b)).

- (2) In this section:

**barrier bag** means a bag used to carry unpackaged perishable food, including fruit, vegetables, meat and fish.

**cutlery** means utensils used for consuming food and includes a spork, splade and chopsticks.

**plastic microbead** means a plastic particle less than 5mm wide.

**rinse-off product** means a liquid product that is—

- (a) used for cleaning or personal care; and
- (b) designed or intended to be rinsed off immediately or shortly after use.

**Examples—rinse-off product**

- 1 shampoo and conditioner
- 2 face masks and face wash, including exfoliants
- 3 hair dye, whether permanent, semi-permanent or otherwise
- 4 toothpaste
- 5 body wash products, including exfoliants

**single-use plastic shopping bag—**

- (a) means a bag that is made, in whole or in part, of polyethylene with a thickness of less than 35 microns; but
- (b) does not include—
  - (i) a barrier bag; or
  - (ii) a compostable plastic bag.

**12 Prescribed non-compostable degradable plastic product—Act, s 13 (1), def *prohibited plastic product*, par (a) (ii)**

- (1) A product made of oxo-degradable plastic is prescribed.
- (2) In this section:

**non-compostable**—see the Act, section 13 (2).

**oxo-degradable plastic** means a plastic that contains 1 or more additives to accelerate fragmentation.

## Part 4                      Amendments

### **13            Legislation amended—sch 2**

This regulation amends the legislation mentioned in schedule 2.

**Schedule 1                  Recyclable waste**  
(see s 8 (3), def *recyclable waste*)

column 1 item	column 2 material
1	aluminium cans, aluminium trays and foil
2	cardboard
3	glass bottles and jars
4	liquid paperboard cartons
5	paper
6	rigid plastic bottles and containers with lids removed
7	steel cans

## Schedule 2      Circular Economy Regulation 2023—Amendments

(see s 13)

### [2.1]      Section 11 (2), new definition of *plastic retail carry bag*

*insert*

***plastic retail carry bag*** means a bag with handles that is—

- (a) made, in whole or in part, of plastic; and
- (b) used for carrying goods purchased from a retailer.

**Example—made partly of plastic**

a bag made of plastic-laminated paper or cardboard

### [2.2]      Section 11 (2), definition of *single-use plastic shopping bag*

*substitute*

***single-use plastic shopping bag***—

- (a) means—
  - (i) a bag that is made, in whole or in part, of polyethylene with a thickness of less than 35 microns; or
  - (ii) a plastic retail carry bag; but
- (b) does not include—
  - (i) a barrier bag; or
  - (ii) a compostable plastic bag; or
  - (iii) an unsealed bag that is the packaging in which perishable food is offered for sale; or

- (iv) a carry bag that is made, in whole or in part, of 1 or more of the following fabrics:
  - (A) nylon;
  - (B) polyester;
  - (C) woven polypropylene;
  - (D) non-woven polypropylene if the bag has sewn, rather than heat-welded, seams and the fabric has a minimum weight of 90g/m<sup>2</sup> measured as a single layer of fabric.



## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions relevant to this regulation. For example:

- may (see s 146)
- must (see s 146).

*Note* Terms used in this regulation have the same meaning that they have in the *Circular Economy Act 2023*. For example, the following terms are defined in the Act, dict:

- authorised person (see s 24)
- beverage (see s 11)
- plastic
- prohibited product (see s 12 (1))
- single use (see s 14 (1))
- waste.

*food business*, for part 2 (Waste reduction measures)—see section 6 (1).

*registered waste transporter*, for part 2 (Waste reduction measures)—see section 6 (1).

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## Endnotes

### 1 Notification

Notified under the Legislation Act on 2023.

### 2 Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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