



Australian Capital Territory

# Plastic Shopping Bags Ban Act 2010

A2010-49

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J2009-955

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**Dictionary**



Australian Capital Territory

# Plastic Shopping Bags Ban Act 2010

**A2010-49**

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An Act to restrict the supply of plastic shopping bags, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## **1 Name of Act**

This Act is the *Plastic Shopping Bags Ban Act 2010*.

## **2 Commencement**

- (1) This Act (other than section 7) commences on 1 July 2011.

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

- (2) Section 7 commences on 1 November 2011.

## **3 Dictionary**

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

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

For example, the signpost definition '*plastic shopping bag*—see section 6' means that the term 'plastic shopping bag' is defined in that section.

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

## **4 Notes**

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

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (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.

## 6 What is a *plastic shopping bag*?

In this Act:

*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 bag prescribed by regulation to be a plastic shopping bag; but
- (b) does not include—
  - (i) a biodegradable bag; or
  - (ii) a plastic bag that is an integral part of the packaging in which goods are sealed prior to sale; or
  - (iii) a barrier bag; or
  - (iv) a bag prescribed by regulation not to be a plastic shopping bag.

## **7 Retailer not to supply plastic shopping bags**

- (1) A retailer commits an offence if—
  - (a) the retailer supplies a plastic shopping bag to a customer of the retailer; and
  - (b) the plastic shopping bag is supplied for the customer to carry goods bought, or to be bought, from the retailer.

Maximum penalty: 50 penalty units.

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

## **8 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) A regulation may apply, adopt or incorporate an instrument as in force from time to time.

*Note 1* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

*Note 2* A notifiable instrument must be notified under the Legislation Act.

## **9 Review of Act**

- (1) The Minister must review the operation of this Act as soon as practicable after the end of its 2nd year of operation.
- (2) The Minister must present a report of the review to the Legislative Assembly within 6 months after the day the review is started.
- (3) This section expires 3 years after the day it commences.

**100 Transitional—retailer to make alternative shopping bags available and display notices**

- (1) A retailer commits an offence if—
- (a) the retailer—
    - (i) makes a plastic shopping bag available to a customer of the retailer; and
    - (ii) the plastic shopping bag is made available for the customer to carry goods bought, or to be bought, from the retailer; and
  - (b) the retailer fails to make an alternative shopping bag available for the customer to carry goods bought, or to be bought, from the retailer.

Maximum penalty: 50 penalty units.

- (2) A retailer commits an offence if—
- (a) the retailer—
    - (i) makes a plastic shopping bag available to a customer of the retailer; and
    - (ii) the plastic shopping bag is made available for the customer to carry goods bought, or to be bought, from the retailer; and
  - (b) the retailer fails to display a notice in accordance with subsection (3).

Maximum penalty: 50 penalty units.

- (3) For subsection (2) the notice must—
- (a) be at least 95mm in height and 150mm in width; and

(b) contain the following statement:

‘The ACT Government will ban the supply of lightweight checkout style plastic shopping bags, starting on 1 November 2011.

Alternative shopping bags are available from this retail outlet.’; and

(c) be prominently displayed so that so it can be seen and read easily by a person near where the retailer makes a plastic shopping bag available.

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

(5) In this section:

*alternative shopping bag* means—

(a) a biodegradable bag; or

(b) a bag that is designed to be used on a regular basis over a period of approximately 2 years; or

(c) a bag prescribed by regulation to be an alternative shopping bag.

(6) This section expires on the commencement of section 7.

**101 Fair Trading (Consumer Affairs) Act 1973,  
Dictionary, definition of *fair trading legislation*, new  
paragraph (da)**

*insert*

(da) the *Plastic Shopping Bags Ban Act 2010*; or

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- Act
- by
- Executive
- for
- may
- month
- must
- regulation.

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

***biodegradable bag*** means a plastic bag that meets the requirements prescribed by regulation for being compostable.

***plastic shopping bag***—see section 6.

***retailer*** means a person who sells goods in trade or commerce.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 28 October 2010.

**2 Notification**

Notified under the Legislation Act on 14 December 2010.

**3 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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I certify that the above is a true copy of the Plastic Shopping Bags Ban Bill 2010, which was passed by the Legislative Assembly on 7 December 2010.

Acting Clerk of the Legislative Assembly

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