

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for the Environment, Climate Change and Water)

Plastic Shopping Bags Ban Bill 2010

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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(Minister for the Environment, Climate Change and Water)

Plastic Shopping Bags Ban Bill 2010

A Bill for

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

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

1 **1 Name of Act**

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

3 **2 Commencement**

4 (1) This Act (other than section 7) commences on a day fixed by the
5 Minister by written notice.

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

8 *Note 2* A single day or time may be fixed, or different days or times may be
9 fixed, for the commencement of different provisions (see Legislation
10 Act, s 77 (1)).

11 *Note 3* If a provision has not commenced within 6 months beginning on the
12 notification day, it automatically commences on the first day after that
13 period (see Legislation Act, s 79).

14 (2) Section 7 commences 4 months after the day this Act, section 3
15 commences.

16 **3 Dictionary**

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

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

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

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

1 **4** **Notes**

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

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

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

6 Other legislation applies in relation to offences against this Act.

7 *Note 1* *Criminal Code*

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

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

14 *Note 2* *Penalty units*

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

17 **6** **What is a *plastic shopping bag*?**

18 In this Act:

19 *plastic shopping bag*—

20 (a) means—

21 (i) a bag that is made (in whole or in part) of polyethylene
22 with a thickness of less than 35 microns; or

23 (ii) a bag prescribed by regulation to be a plastic shopping
24 bag; but

25 (b) does not include—

26 (i) a biodegradable bag; or

27 (ii) a plastic bag that is an integral part of the packaging in
28 which goods are sealed prior to sale; or

- 1 (iii) a barrier bag; or
2 (iv) a bag prescribed by regulation not to be a plastic shopping
3 bag.

4 **7 Retailer not to supply plastic shopping bags**

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

10 Maximum penalty: 50 penalty units.

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

12 **8 Regulation-making power**

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

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

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

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

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

1 **9 Review of Act**

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

7 **100 Transitional—retailer to make alternative shopping bags**
8 **available and display notices**

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

19 Maximum penalty: 50 penalty units.

- 20 (2) A retailer commits an offence if—
- 21 (a) the retailer—
- 22 (i) makes a plastic shopping bag available to a customer of
23 the retailer; and
- 24 (ii) the plastic shopping bag is made available for the
25 customer to carry goods bought, or to be bought, from the
26 retailer; and

- 1 (b) the retailer fails to display a notice in accordance with
2 subsection (3).
- 3 Maximum penalty: 50 penalty units.
- 4 (3) For subsection (2) the notice must—
- 5 (a) be at least 95mm in height and 150mm in width; and
6 (b) contain the following statement:
7 'The ACT Government will soon ban the supply of
8 lightweight checkout style plastic shopping bags.
9 Alternative shopping bags are available from this retail
10 outlet.'; and
- 11 (c) be prominently displayed so that so it can be seen and read
12 easily by a person near where the retailer makes a plastic
13 shopping bag available.
- 14 (4) An offence against this section is a strict liability offence.
- 15 (5) In this section:
- 16 *alternative shopping bag* means—
- 17 (a) a biodegradable bag; or
18 (b) a bag that is designed to be used on a regular basis over a
19 period of approximately 2 years; or
20 (c) a bag prescribed by regulation to be an alternative shopping
21 bag.
- 22 (6) This section expires on the commencement of section 7.

1 **101 Fair Trading (Consumer Affairs) Act 1973,**
2 **Dictionary, definition of *fair trading legislation*, new**
3 **paragraph (da)**

4 *insert*

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

1 Dictionary

2 (see s 3)

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

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

- 6 • Act
- 7 • by
- 8 • Executive
- 9 • for
- 10 • may
- 11 • month
- 12 • must
- 13 • regulation.

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

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

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

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

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2010.

2 Notification

Notified under the Legislation Act on 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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